OUTER HOUSE, COURT OF SESSION

[2018] CSOH 119

AD20/17

OPINION OF LADY WOLFFE

in the Petition of

FIFE COUNCIL

Petitioners

for a Permanence Order re LN

Petitioner: McAlpine; Anderson Strathern LLP
First Respondent: McGuire; Drummond Miller LLP
Second Respondent: Cartwright; BCKM

29 November 2018

Introduction

[1] The petitioners seek a permanence order with ancillary provisions and for authority for a child ("the child") to be adopted, in terms of sections 80 to 84 the Adoption of Children (Scotland) Act 2007 ("the 2007 Act"). The child was born in February 2017 and was 19 months at the date of the last submissions, in late September 2018. The child's natural mother and father, the first and second respondents, respectively, oppose those orders.

Background

[2] This case is unusual in a number of respects. First, the child was removed from the

care of the respondents on the day of its birth by virtue of an *interim* child protection order with, *inter alia*, a condition of no contact with either respondent. (A compulsory supervision order ("CSO") was made with a condition of no contact by the Children's Hearing on 12 April 2017.) Secondly, notwithstanding a variety of statutory meetings and hearings concerning the child held in the months following its birth, the respondents took no steps to challenge the condition of no contact. The respondents have therefore had no contact with the child since the day it was born. As a consequence, there has been no parenting assessment made in relation to either of the respondents in respect of the child. Thirdly, the respondents' first child was taken into care in England and ultimately freed for adoption following English court proceedings. (This first child, whom I shall refer to as "the older sibling", is a full-blood sibling to the child.) Parenting assessments of the respondents were undertaken by the relevant English local authority in respect of their first child (ie the older sibling). The respondents moved to Fife in about mid- October 2016, toward the conclusion of English proceedings and at the point when they were expecting another baby, namely the child who is the subject of these proceedings. Responsibility for the child, while still unborn, was transferred to the petitioners. A further unusual feature of this case is that the report of the curator is highly critical of the petitioners.

[3] The petitioners sought to engage with the respondents in the months prior to and after the child's birth. By reason of the respondents' lack of engagement, as the petitioners characterise it, and in reliance on information supplied to them by Gloucestershire social services, the petitioners resolved to seek certain orders in these proceedings which would have the effect of extinguishing the respondents' parental rights and granting authority to adopt. As at the date of the issue of this opinion, the child will be about 21 months old.

The orders sought

[4] The petitioners seek a permanence order with authority to adopt. In addition to the mandatory provisions set forth in the 2007 Act, the following ancillary orders are sought:

(i) vesting in the petitioners in respect of the child the parental responsibilities mentioned in section 1(1)(a), (b)(i) and (d) of the Children (Scotland) Act 1995 ("the 1995 Act") and the parental rights mentioned in section 2(1)(b) and (d) of the 1995 Act;

(ii) extinguishing in relation to the child the parental responsibilities mentioned in section 1(1)(a), and (b) and (d) of the 1995 Act and the parental rights mentioned in section 2(1)(a), (b) and (d) of the 2007 Act in respect of both the mother and the father of the child;

(iii) granting an order that there shall be no direct or indirect contact between the said child and the parents of the child;

and

(iv) termination of the child's compulsory supervision order ("CSO").

The petitioners also seek authority for the child to be adopted. I shall refer to the foregoing as "the Orders".

The structure of this opinion

[5] One consequence of the features I have identified in paragraph [2], above, is that the petitioners led evidence from Gloucester social workers to speak to the concerns that led to the removal of the older sibling as well as evidence from their own witnesses and their concerns in relation to the child. I set out this evidence in separate parts, under the headings "The petitioners' proof: the Gloucestershire witnesses" and "The petitioners' proof: the Fife

witnesses". Thereafter I set out the respondents' evidence followed by my discussion of the factual and legal issues. Before recording that evidence and in order to assist the reader, I first set out the Application Report, outline the shape of the proof and explain how I propose to deal with the lengthy chronology of events.

The Application Report

The grounds in support of the application for the Orders

[6] The petitioners lodged a report prepared by Debbie Adamson in support of the Orders ("the Application Report"). The asserted failures by the respondents in their parental responsibilities towards the child are detailed in paragraphs 39 to 47 of the Application Report, which is in the following terms (I have numbered the bullet points in para 40 for ease of reference):

> "39. Both [the respondents] have the legal right to have [the child] reside with them however evidenced a lack of parenting capacity to provide adequate care and protection as highlighted in the parenting capacity assessment undertaken by Social Services in Gloucestershire in 2016 in respect of their first child [ie whom I have termed "the older sibling"]. The assessment highlighted a lack of commitment to contact with their first child – [it] was born at 29 weeks gestation and they were encouraged to visit [it] daily in hospital however failed to do so and the child was left alone in hospital for extended periods of time. During the transition to discharge [the first respondent] was expected to stay with the child for one week in hospital however stayed only one night, choosing to stay with [the second respondent] instead. When [the first respondent] and the child were in a foster care placement together she was heard shouting and swearing at [the older sibling] and would not interact by talking or smiling at [the older sibling].
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> 40. [The respondents] have failed in their parental responsibilities towards [the child], consistently failed to prioritise [the child's] needs over their own and commit to parenting [it] consistently and adequately:
>
> 1) [The respondents] initially concealed the pregnancy from health professionals [before] moving to Fife from Gloucestershire prior to the Initial Child Protection Case Conference[.]

2) Prior to [the child's] birth [the respondents] refused both health and social work professionals access to the family home to undertake assessment of the home environment- this was of particular concern as the couple were insisting that they wanted a home birth without medical assistance[.]

3) [The respondents] left the hospital two hours after [the child] was born with [the first respondent] refusing post-natal check-up and care[.]

4) [The respondents] have been advised of all meetings in relation to [the child] however failed to attend Children's Hearings on 24.02.17, 06.03.17, 23.03.17, 12.04.17, 28.07.17 and 02.11.17, Looked After Child ["LAC"] Reviews on 17.03.17 and 20.07.17 and Child Protection Case Conferences on 16.11.16, 08.02.17 and 17.03.17.

5) [The second respondent] did request an early review of the [CSO] however despite seeking legal advice, neither he nor his solicitor attended the hearing on 28.07.17.

6) [The first respondent] advised the Social Work Service by email on 13 July 2017 that she wanted nothing further to do with social work and asked that her mobile number was removed from social work records. [The second respondent] also asked on the same date that his mobile number be removed from social work records.

7) The allocated social worker attempted to meet with [the respondents] on 30.03.17, 11.04.17, 30.06.17, 07.07.17, 17.10.17 and 23.10.17 to discuss the planning for [the child] however neither attended.

8) [The second respondent] did meet with the allocated social worker on 19 July 2017 advising that he attended on the advice of his solicitor however failed to attend the LAC review the following day or the Children's Hearing the following week.

9) [The respondents] failed to sign medical consent in respect of [the child] and this had to be sought to the Children's Hearing system.

10) On 7 September 2017 schedules were sent to [the respondents] advising of the Local Authority's intention to seek permanence order with authority to adopt however neither responded or returned the paperwork [.]"

41. [The child] has been subject to compulsory measures of care since [its] birth in February 2017 and has never been cared for at home by either [the first or second respondent]. [The respondents] had not had any contact with [the child] since [it's] birth.

42. There is a long history of concerns in relation to the lifestyles of both [the second and first respondents]. These concerns relate to domestic violence, alcohol and drug misuse, sexual abuse, sexual exploitation, emotional abuse, neglect and non-engagement . Both have experienced difficult and traumatic childhoods and until her 18th birthday in December 2016, [the first respondent] was subject to a care order in England.

43. [The second respondent] has four older children with whom he has no contact or involvement. In February 2016 [the first respondent] gave birth to the couple's first child who has subsequently been adopted. [The first respondent] had the opportunity to evidence her ability to provide safe and adequate care and protection for her older child in a mother and baby foster care placement however failed to do so and subsequently left the placement. [The first respondent] has not met with or engaged with the Social Work Service or any other service in any capacity since [the child's] birth. She has had the option to seek legal advice in respect of the care arrangements for [the child] however has failed to do so.

44. Parenting capacity assessments were undertaken by Gloucester Social Work Service in respect of [the respondents] and were concluded in June 2016. The outcome of these assessments was that neither [the first nor the second respondents] evidenced an ability to provide adequate care and protection and both disengaged with the assessment process prior to completion. Due to the lack of engagement with services [the respondents] have not allowed opportunity to undertake further assessment in respect of their commitment to or ability to provide care and protection for [the child].

45. There is a history of substance misuse and [the second respondent] has acknowledged this, by advising the Social Work Service in July 2017 that he is seeking alcohol counselling however this has never been confirmed.

46. There is a history of persistent and deliberate non-engagement with services with [the respondents] refusing entry to their property, non-attendance at meetings such as children's hearings and looked after child reviews – this was evident when they lived in Gloucester and continues to be of concern in Fife.

47. [The child] has been accommodated since [its] birth [in] February 2017 and has had no contact with [the respondents] since this date."

How the needs of the child came to the notice of the petitioners

[7] The Application Report also set out how the needs of the child came to the petitioners' notice. The respondents dispute much of this. In summary, it was noted that

the respondents' first child together was adopted in England. The first respondent became pregnant with the second respondent's child (ie the older sibling), while aged 16 and still a looked after child in the English care system. In December 2015 the older sibling's name was placed on the child protection register in Gloucester under the category of neglect. Prior to the birth of the older sibling, in February 2016, there was very limited engagement by the first respondent with Gloucestershire social services and the second respondent was described as avoiding attending any meetings or appointments.

[8] The older sibling was approximately 12 weeks premature at birth and remained in hospital until late April 2016. During the older sibling's time in hospital, hospital staff raised concerns regarding the respondents' ability to care for and interact with their child. Concerns were also identified regarding the second respondent's controlling behaviour towards the first respondent and the lack of time they were spending with the older sibling in hospital caring for it. The respondents were encouraged to visit the older sibling daily. For the first two weeks the respondents attended regularly, however extended periods of time passed without the respondents visiting the older sibling and it was left alone for days at a time without visitors. Concerns were also passed to Gloucestershire social services about a threat the respondents made to kidnap the older sibling. The respondents, particularly the second respondent, was described as very aggressive and threatening toward professionals during discussions regarding the care of the older sibling.

[9] In late April 2016, the older sibling and the first respondent were placed together in a mother and baby foster care placement. The first respondent was described as preoccupied with her relationship with the second respondent and, as a consequence, concerns arose about her capacity to parent or care for the older sibling. The first respondent left the placement after six weeks and refused to return despite attempts by Gloucestershire social

services to encourage her to do so. At this time the first respondent was offered supported living accommodation but she refused to reside there and continued to live with the second respondent. She refused to engage with professionals with the result that welfare checks required to be carried out by the police to ensure that she was safe, given she was still subject to a care order in England. Gloucestershire social services undertook a parenting capacity assessment in respect of the respondents but they failed to engage fully with those assessment or contact arrangements. At the end of May the older sibling moved to a foster carer and was formally adopted at the end of September 2016. The parenting capacity assessments concluded in June 2016 that neither of the respondents had the capacity to provide adequate care and protection for the older sibling.

[10] In late August and early September 2016, Gloucestershire social services became increasingly concerned that the first respondent was pregnant with her second child by the second respondent. The second respondent had advised the housing services and job centre that the first respondent was pregnant. The respondents denied these claims and were described as continuing to conceal the pregnancy and refusing to engage with any professionals including health services. The respondents indicated that they were moving away and would no longer engage with Gloucestershire social services but (it is said) did not divulge details.

[11] In October 2016 Gloucestershire social services received information that the respondents had travelled to Scotland, as the second respondent's mother was terminally ill. The respondents did not advise professionals of their whereabouts and, following confirmation that the first respondent was pregnant, an Initial Child Protection Case Conference took place in late October. The child's name was placed on the child protection register under the categories of neglect and emotional abuse. Gloucestershire social services

reported to police that the first respondent (and the child) were missing. They were located in Fife in late October. The petitioners' social workers agreed a plan involving removal of the child from the respondents' care at birth.

[12] Throughout their time in Fife prior to the birth of the child, the respondents insisted on a home-birth without medical assistance. By reason of the respondents' disengagement, health professionals were unable to assess the suitability of their home for this purpose and, therefore, could not support a home-birth. Given the premature birth of the older sibling, significant health risks were identified and the plan agreed that, on the respondents contacting health services, an ambulance would be sent to take the first respondent to hospital. This in fact occurred and the child was born in hospital in late February 2017. The child was placed in the neo-natal nursery due to the risks identified of the respondents absconding with it. A child protection order with a condition of no contact was granted. The order was continued on the second working day hearing and on 12 April 2017 the child was made subject to a CSO, which was renewed unvaried at a subsequent Children's Hearing on 20 July 2017. This was the Children's Hearing requested by the second respondent but which he failed to attend. Neither of the respondents attended any of the Children's hearings, child protection case conferences or looked after child reviews. This was regarded as similar to their conduct in England in respect of the older sibling. A plan to promote permanence was decided at a looked after child review meeting in March 2017.

[13] It should immediately be noted that the respondents dispute much of the foregoing narrative in the Application Report. I highlight the principal areas of dispute in the next section, discussing the shape of the proof.

The shape of the proof

[14] The features identified in paragraph [2], above, have resulted in a lengthier proof than might be expected. While initially set down for two weeks, the proof ultimately extended to four weeks (spread out over a seven-week period). In addition, parties lodged further submissions commenting on several cases issued after the close of the proof. Further oral submissions were made at a hearing on 28 September 2018 (in respect of *Fife Council* v *KPM* [2018] SAC (Civ) 25 and *North Lanarkshire Council* v *KR* [2018] CSIH 59. Given the number of witnesses and the large number of discrete issues canvassed in evidence, it may assist if I set out the shape of the proof and the context in which these discrete issues appear to arise.

Outline of the petitioners' proof

[15] The petitioners lodged 15 affidavits. Three of these were from members of Gloucestershire social services, who dealt with the older sibling. Nine affidavits were from members of the petitioners' own social work department. Evidence was led from four of these witnesses, namely Kerry Parsons, Debbie Adamson, Lesley Stevenson and Tom Bochenek. I shall refer to these as "the Fife witnesses". The other five witnesses from the petitioners' social work department were made available for cross-examination, though in the end they were not called or cross-examined. (The affidavits from these uncalled witnesses, whom I shall refer to as the petitioners' "secondary witnesses", were quite short. They were also in relatively formal terms, eg speaking to file entries or documents which were not agreed.) One affidavit was lodged from each of the foster carer (with whom the child has resided since November 2017), the community midwife, Wendy Johnstone and the first respondent's mother. Of these, only Wendy Johnstone gave evidence at the proof. In

addition, the petitioners lodged a report from a clinical psychologist, Dr Katherine Edward, who also gave evidence at the proof.

[16] It must be noted that there was considerable overlap in matters covered in the affidavits from the petitioners' witnesses. There is also force in the point made by Mr McGuire, counsel for the first respondent, that many of these witnesses had not had direct contact with the respondents or the events or documents they spoke to. I accept that submission and therefore do not record the evidence that was repetitive or which was spoken to by another witness with direct knowledge of the matters.

The Gloucestershire witnesses

[17] The petitioners led three witnesses from Gloucestershire social services (namely Catherine Stewart, Naomi Gillard and Talia Underwood (whom I shall refer to collectively as "the Gloucestershire witnesses") to speak to their interactions with the respondents and the parenting assessments Catherine Stewart carried out. A number of discrete chapters emerged from the evidence of the Gloucestershire witnesses, as follows:

(1) There were higher-level challenges to the petitioners' reliance on Gloucestershire's parenting assessments. In particular, it was argued that these parenting assessments were historic and they related to a child other than the child who is the subject matter of these proceedings. It was also argued that the petitioners uncritically accepted the Gloucestershire materials or placed too much weight on these materials.

(2) There were challenges to some of the findings in the parenting assessments. The respondents also contended that the author of these, Catherine Stewart, placed too much emphasis on the negatives and underestimated or

overlooked positive features. Separately, the respondents contended that they were unaware at the time that these assessments were being undertaken. In addition, and in contrast to what is recorded in the parenting assessment, the first respondent gave evidence that in her view the placement had gone well for so long as it had subsisted, and she relied on this as illustrative of her abilities as a parent.

(3) A number of features of the respondents' interactions with Gloucestershire social services were put in issue. In particular, there was a large amount of evidence about how the mother and baby foster care placement involving the first respondent and the older sibling had ended. (The implication appeared to be that the first respondent was not responsible for that and that the respondents were thereby precluded from further contact with the older sibling. These matters are disputed.) Other disputed issues included the frequency and character of the respondents' visits to the older sibling while it was still in hospital; whether the respondents had "fled" to Fife or had concealed from the Gloucestershire witnesses that they were expecting the child; and the state in which the respondents' tenanted flat in Gloucester was left when they went to Fife. In addition to these matters, which were relied on by the petitioners in seeking the orders, the respondents put in issue the degree of support they had from Gloucestershire social services. They were also critical of the mother and baby foster care placement arranged by Gloucestershire social services. The first respondent maintained she had been promised a place in a mother and baby unit. She was critical of the suitability of the foster carer's home and also of the quality of supervision by the foster

carer, whom she characterised as "controlling" or as undermining the first respondent and her attempts to bond with the older sibling.

The Fife witnesses

[18] One of the principal grounds relied upon by the petitioners was the respondents' non-engagement with social work and health care professionals, and what could be inferred from this. As a consequence, the petitioners led the evidence of every interaction they had with the respondents. (For ease of reference, I have summarised these in part B of Appendix 1 to this opinion.) The respondents' position was that the non-engagement described by the Fife witnesses was less complete than contended. They sought to demonstrate this by focusing on certain interactions as demonstrative of engagement (see part C of Appendix 1). The individual chapters of evidence included the breakdown in the relationship between the principal social worker allocated to the child while still unborn, namely Kerry Parsons, and the respondents; the meeting with a more senior member of the petitioners' social work department (Tom Bochenek); the respondents' refusal to give access to social workers in the weeks and months preceding the birth of the child; the first respondent's insistence on a home-birth, the denial of access to the respondents' flat to assess its suitability for that purpose and what may be inferred from this; and the first respondent's sporadic attendance at ante-natal appointments.

Other chapters of the petitioners' proof

[19] *Dr Katherine Edward's evidence:* The petitioners relied on a report prepared by a clinical psychologist, Dr Katherine Edward, to establish the detrimental impact on the child of disruption of the family ties it was forming in its foster care family. The second

respondent challenged the admissibility of this evidence. Separately, a legal issue arose as to whether this evidence was relevant to consideration of the threshold test under section 84(5)(c)(ii) of the Act (as the petitioners contended) or fell to be excluded from consideration at that stage (as the respondents contended).

[20] *The foster carer*: the petitioners produced a short affidavit from the foster carer who spoke to the child's circumstances in the placement and with the older sibling. Her evidence was not required and she was not cross-examined on the terms of her affidavit.

The curator's report

[21] As is common in these cases, a curator was appointed and in due course his report was lodged. The curator, Mr Inglis, Advocate, only met with the respondents. He was highly critical of the petitioners' conduct. The petitioners, in turn, are critical of his report and the fact that he did not meet with the petitioners or seek their views before producing his report. Having met the respondents, the curator recorded their version of events in respect of the following:

(1) that a social worker in Gloucestershire social services had been dismissed as a result of the respondents' complaint in relation to his conduct at the meeting on 2 February 2016 and to which the respondents attribute the premature birth of the older sibling;

(2) that Gloucestershire social services did not place the first respondent and the older sibling in a mother and baby unit, but with a foster carer; that the foster carer's home was poorly looked after and that the first respondent was not permitted to leave on her own (the curator records having been shown correspondence confirming the respondents' complaints of this nature);

(3) that the foster care placement in Gloucester ended by the foster carer driving off with the older sibling; that the first respondent received a phone call from Gloucestershire social services advising her that the placement had ended and that she was not to return; and that she was promised a new placement which did not materialise (the curator notes that this contradicts the account in the petition);

(4) that in respect of the parenting assessments undertaken by Catherine Stewart, the curator notes that the second respondent refused to cooperate with this process and that it appeared to the curator that only three sessions were arranged for this purpose after the placement ended; the curator noted that the parenting assessments "placed considerable reliance" on the respondents' own childhood experiences;

(5) that in respect of the second respondent's statement to the curator, the respondents did not have the financial means to travel to England to participate in the court proceedings in relation to the older sibling, the curator noted that this "does not appear consistent with the chronology";

(6) that the curator recorded the respondents' denial that they moved to Fife to evade the attention of Gloucestershire social services and the second respondent's observation that social workers "repeatedly visited and asked him about paedophilia";

(7) that the respondents were neither present nor aware of "any meeting" at which the petitioners decided that the child would be accommodated at birth; he recorded the first respondent's desire to have a home birth;

(8) that he recorded in detail the respondents' version of the events surrounding the birth of the child (including the ambulance being stopped by the police on its way to hospital and the removal of the child from the respondents within one hour of its birth);

(9) that the respondents do not trust the petitioners; the second respondent had told Kerry Parsons he did not wish to speak to her; that the second respondent's complaints about Kerry Parsons had not been responded to; and that the second respondent did not have the fare to travel to the Children's Hearings and that no assistance was forthcoming; and

(10) that the respondents were willing to engage in a parenting assessment by a suitably qualified expert independent of the local authority;

The curator commented on certain aspects of this history. He stated that he was not aware of an allegation that either parent was attempting to remove the child or had made such a threat. In the absence of such threats, he expressed the view that the petitioners' conduct was "unwarranted and cruel", and that this history had had continuing consequences for the relationship between the petitioners and respondents. In relation to the order removing the child from birth with a condition of no contact, he regarded this as "draconian". Such an order might be justified if there were a serious and immediate risk of harm to the child which could not be contained by supervised contact, but he saw no evidence of these factors in the history of this case. He also stated that the petitioners had "never considered, investigated, or attempted rehabilitation" of the child to the respondents' care. He noted that within a month of the birth of the child, the petitioners had determined that it should be adopted but he was unable to explain what he described as the delay between that decision and the lodging of this petition. He recorded the second respondent repeatedly telling him

that the family's human rights had been breached. He recorded his agreement with that statement and stated "[f]rom the information I have seen in the petition, report and my interview with the parents, it is apparent that the local authority has acted throughout without regard to its obligations under Article 8 of the European Convention on Human Rights, both in relation to the parents and to [the child]".

[22] In respect of the statutory factors, the curator noted that the child was too young to adopt a religious persuasion; that it was white British and had no linguistic facility given its infancy. For that reason, it was too young to express a view as regards its future. He was unable to form a view as to whether the order was likely to safeguard and promote the welfare of the child throughout its childhood. This was because the evidence of parenting capacity was contained in a report which was 18 months old, incomplete and because its author was acting for a party in contested proceedings. He was also unable to reach a conclusion on the question of whether it would be better for the child if the court were to grant authority to adopt than if it were not. He recorded that the likely effect of making the order would be to sever the relationship between the child and the respondents who wish to care for it. Finally, he expressed the view that, on the information available to him, it would be better for the child that no order be made.

Outline of the respondents' proof

[23] The respondents each gave evidence. Furthermore, the first respondent lodged a report from Dr Petrie, a clinical psychologist.

The respondents' evidence

[24] Both of the respondents lodged affidavits and gave evidence at the proof. I have

already recorded above many of the matters they put in issue: see paragraphs [16] and [17], above. Their evidence covered their mental health issues and other vulnerabilities. In particular, the first respondent produced a report from a clinical psychologist, Dr Petrie, who made a retrospective diagnosis that it was likely that the first respondent suffered from post-natal depression after the births of the older sibling and the child. His report was agreed midway through the proof and his parole evidence dispensed with. The respondents' other chapters of evidence included the decision to come to Fife in October 2016; the final illnesses and deaths of the second respondent's parents at critical times, and the impact of this on him. They also challenge the characterisations (in bullet point 3 of para 40 of the Application Report) that they left the hospital after the child's birth without asking to see it. They also contend that they made overtures in the months after the child's birth to have contact with it.

The Joint Minute

[25] Parties entered into a Joint Minute ("the Joint Minute"). So far as material, this agreed the date of the child's birth; that the respondents were the parents of the child and had parental rights and responsibilities in relation to it; and that the child has an older sibling born in February 2016 ("the older sibling"). It was also agreed that the older sibling had been adopted and that there has been no direct contact between the respondents and the older sibling. On 10 November 2017, the child moved to reside with the older sibling. The adoptive parents of the older sibling are also the prospective adoptive parents to the child. The Joint Minute also agreed the dates of certain meetings and relative documentation. However, there was no agreed chronology.

Chronology of the respondents' interactions with the petitioners' social workers and health professionals and other matters not disputed

Comment on chronology

[26] As noted at the beginning of this opinion, the petitioners set out to prove every interaction between the respondents and the social workers and health professionals from Gloucestershire social services and the petitioners. As matters developed, however, the respondents' approach was not to challenge the chronology of events *per se.* Instead they focused on certain interactions initiated by them or which they wished to characterise as positive (with a view to undermining the petitioners' witnesses' assertions that their non-engagement was total), or they otherwise advanced circumstances (eg mental health issues, the first respondent's post-natal depression and the terminal illnesses and deaths of the second respondent's parents) as factors relevant to understanding their conduct at the time.

[27] On this approach, the respondents were less concerned with the fine detail of the petitioners' chronology. It is not necessary, therefore, to record the totality of this evidence in the body of this opinion. Out of deference to the extensive proof I have heard on these matters I do set this out in full in Appendix 1 to this opinion. In formal terms, the respondents did not agree the terms of the documentation comprising the petitioners' social work file; in practical terms, however, the respondents did not dispute the majority of these entries. I record in the body of the opinion those passages which were contested.

[28] For present purposes, it suffices to note that the respondents did not attend any of the formal meetings concerning the child and which are detailed in bullet points four and five of paragraph 40 to the Application Report, quoted at paragraph [5], above. While the respondents met with the social worker allocated to the child, Kerry Parsons, in the first two weeks of November 2016, shortly after they had come to Fife, the relationship quickly broke

down. (The responsibility for that breakdown is disputed.) Thereafter, interactions between Kerry Parsons and respondents became increasingly fraught. By the beginning of 2017, the petitioners' social workers were unable to complete the vast majority of the child protection visits they sought to undertake. Leaving aside the attempted visit on 17 January 2017, when the respondents appeared not to be at home, social workers were refused access on 5 and 12 December 2016, and on 10, 11, 13, 18 and 24 January 2017. After a meeting between the respondents and two team managers from the petitioners' social work department (one of whom was Tom Bochenek) on 1 February, social workers other than Kerry Parsons were deputed to undertake the child protection visits. However, other social workers were also unable to complete child protection visits on 10, 14, 17, 19, 20 and 21 February 2017. In addition, the first respondent missed anti-natal appointments and scans on 9 and 12 December 2016 (on 12 December the respondent attended initially, but left after 15 minutes before she was seen), on 23 January 2017 and on 6, 13 and 20 February 2017. She attended anti-natal appointments on 28 December 2016, on 4 and 30 January 2017 (albeit she left on the latter date before meeting with the consultant).

Other matters from the Application Report not disputed

[29] The Application Report recorded details of the respondents' family circumstances and upbringings. This was covered by several of the affidavits (eg those of Catherine Stewart and Talia Underwood). Very little of this material was challenged in the course of the proof. It is more convenient to record these matters here. I do indicate those parts the respondents challenged.

[30] That part of the Application Report detailing the first respondent's background is in the following terms:

"13. …. [The first respondent] is the eldest of […] four children. She has a half-brother born to her mother in 2011.

14. There has been a long history of social work involvement with the family since 2001 due to concerns in respect of parental alcohol misuse, drug abuse, sexual abuse, domestic violence and chaotic and neglectful parenting. [The first respondent] and all of her siblings were accommodated in local authority care as a result of the above concerns and the youngest half sibling is now adopted.

15. When [the first respondent] was accommodated there continued to be concerns regarding her seeking contact with her family, multiple episodes of being reported missing, her use of cocaine, cannabis and alcohol and her being involved in relationships with men who were considerably older than her. She was subject to a care order in England which expired on her 18th birthday in December 2016.

16. [The first respondent] is a vulnerable young woman who has had a very difficult home life since birth due to her own mother's alcohol misuse. She witnessed domestic violence as a child and experienced a chaotic and inconsistent upbringing. Whilst she was in care she went missing on a very regular basis and was assessed as at risk of sexual exploitation. She has been the victim of controlling and abusive behaviour from some of the men with whom she has had relationships, has a history of depression and has previously attempted suicide by overdosing on painkillers."

[31] That part of the Application Report detailing the second respondent's background is as follows:

"17. [The second respondent] was born in Kirkcaldy….. He is the younger of his parents' two children. The family originate from Fife but spent many years living in the Gloucester area. [The second respondent's] mother died at the end of 2016 and he reports that his father is terminally ill. He has described being close to his sister who relocated back to Scotland following a violent relationship which resulted in her losing the care of her own four children.

18. [The second respondent] had periodic social work involvement during his childhood and at the age of sixteen he was homeless. [The second respondent's] childhood appears to have been difficult and characterised by substance misuse and domestic violence between his parents. His parents separated when he was a child and his mother became involved in another relationship with a man who was an alcoholic and was physically abusive to both [the second respondent] and his mother. When he was aged thirteen his mother disappeared with this man and left him with a cousin. Following this he spent a period of time moving between friends and family. [The second respondent] previously told social workers that his father has eight or nine children from different relationships however was unclear about the extent of his family network.

> 19. [The second respondent] has four older children to four different women. He has no contact with any of the children however all four continue to live in the Fife area. There were concerns regarding domestic violence and controlling behaviour in these relationships however [the second respondent] appears to apportion blame on the other parties for the breakdown of these relationships, and does not accept any responsibility himself.
>
> 20. [The second respondent] has a history of mental health issues and has a diagnosed anti-social personality disorder and a history of non-engagement with mental health services. There are also concerns regarding his misuse of alcohol and illicit drugs. [The second respondent] has convictions for a variety of offences including possession of an offensive weapon and driving whilst under the influence of alcohol."

It should be noted that the second respondent disputed the observations of controlling behaviour or domestic violence in the context of his own relationships, as stated at the end of paragraph 19 in the passage just quoted.

The petitioners' proof: the Gloucestershire witnesses

[32] In conducting their case, the petitioners led witnesses from their own social work department before leading the Gloucestershire witnesses. As will be seen, the petitioners' social workers were very reliant, at least initially, on the assessments made by Gloucestershire social services and other materials provided to them at the time responsibility for the child (while still unborn) was transferred to them in November 2016. For that reason, I begin with the evidence of the Gloucestershire witnesses. These were Catherine Stewart, Talia Underwood, and Naomi Gillard. Talia Underwood was the first respondent's own social worker. Naomi Gillard was the deputy manager, and so did not have many direct dealings with the respondents at the material time. Of the three who gave evidence before me, Catherine Stewart was the most important. She was charged with the responsibility for preparing the parenting assessments and she succeeded David Shaw as the social worker allocated to the unborn child. These parenting assessments related to the

respondents' interactions with their first baby, the older sibling, and not with the child. The respondents criticise the petitioners' reliance on them for that reason. However, by reason of the respondents' non-engagement with the petitioners, these are the only parenting assessments available. They form part of the materials relied upon by the petitioners in seeking the Orders.

Catherine Stewart

Affidavit and examination in chief

[33] Catherine Stewart was a member of Gloucestershire children's service. She adopted her affidavit and also gave evidence over the course of a day from the witness box. At the start of her evidence, the terms of Dr Petrie's report were put to her, recording a retrospective diagnosis of post-natal depression after the birth of the older sibling. She confirmed that this diagnosis did not cause her to change her view or to reconsider the procedures she had followed at the time. She explained that the social work department had asked a psychologist to meet with the first respondent at the foster carer placement as it was felt it was important for her to have therapeutic support. Consequently, a psychologist was allocated to work with the first respondent and to meet with her on a one-to-one basis. He visited the first respondent at the foster care placement but she did not wish to engage with him and these meetings were discontinued.

[34] Catherine Stewart was the social worker appointed to undertake a parenting assessment of each of the respondents. While incomplete, these parenting assessments comprised part of the documentation provided by Gloucestershire social services to Fife Council. By way of background, Catherine Stewart explained that at the time of the older sibling's birth the first respondent was herself a looked after child. Catherine Stewart

explained that the first respondent had been known to Gloucestershire Council since she was very young. She said that the first respondent had a horrible background. She also had a little brother who had not long been placed for adoption. While it was necessary for the purposes of the parenting assessment for Catherine Stewart to discuss the first respondent's relationship history, support networks and lifestyle choices, the first respondent found these matters difficult to talk about, in particular her family circumstances.

[35] When Catherine Stewart was allocated to the first respondent, as the successor to David Shaw, she also explained that the second respondent was considerably older than the first respondent. (There is a dispute as to the age of the first respondent when she first met him.) He had ongoing mental health issues and had the support of his own mental health worker. Catherine Stewart was aware that the second respondent often felt his mental health was used against him. She disputed this suggestion. The decision in relation to the older sibling was based on so many other pieces of information apart from the second respondent's mental health issues. The respondents had more opportunities than most to work with professionals. In her view the local authority was aware of, and sensitive to, the vulnerabilities of both respondents. She accepted that the second respondents' presentation was variable and, at times, challenging and that it was difficult to establish a productive working relationship. She had experience of working with families. In some sessions he was articulate and able to express himself, whereas other times he was verbally very abusive. Overall his presentation was changeable and unpredictable.

[36] Catherine Stewart accepted that at the time the second respondent's mother was unwell and needed dialysis. She was aware of this and she was aware that the second respondent visited his mother in Fife. The second respondent had received support from his mother. He struggled to cope with his mother's illness.

[37] Catherine Stewart explained that in her experience the second respondent could become very abusive and threatening when challenged. He was very volatile. In telephone calls he had threatened to harm her and would shout down the telephone. At times when she met with him he became angry. He attended the office "out of hours" in an angry manner. He would become agitated in meetings. Nonetheless, she continued to work with the second respondent. He had made allegations which centred around his perception of having been treated unfairly. He regularly claimed his human rights were breached by the council. While she had had a good working relationship with the respondents at the outset, by the end of her involvement with them she did not have a good working relationship. They did not agree with her assessment or with the decisions taken in respect of the older sibling. Due to this they did not engage and they were very unpredictable.

[38] Catherine Stewart explained that both respondents had difficulties with regulating their emotions. She also explained that they often misunderstood information. As she put it, they would appear to understand something and then would come back later and say that she had said something very different. She was aware that this also happened with other professionals. They were volatile to the nurses in hospital. Generally, in her experience, this was one of the more challenging cases to deal with, in part because of the respondents' unpredictable presentation, but also in terms of their abandonment of the older sibling.

[39] From a child's perspective, the second respondents' manner of presentation was one of the areas of concern identified. The second respondent's mental health seemed to be very unpredictable despite the mental health support he received. She understood that the second respondent had been diagnosed with an antisocial personality disorder, making him unpredictable at times. This would raise concerns about how the older sibling would experience the home environment. She explained that Gloucestershire social services would

have assessed what support the second respondent required but he never turned up for assessment sessions or contact. She did assess the second respondent, so far as was possible, having regard to his lack of engagement. In her view, the second respondent's lifestyle was chaotic and his engagement so inconsistent, that she didn't feel that she could recommend the older sibling being rehabilitated to him as a safe option.

[40] Turning to the respondents' contact following the birth of the older sibling, it should be noted that the number and nature of the respondents' visits to the older sibling while it was in hospital are disputed. It was Catherine Stewart's evidence that these visits were infrequent and for relatively short periods of time. She had the hospital records and other information available to her at the time she compiled the parenting assessments. The respondents could have visited the older sibling at any time in hospital. While the older sibling was in the NICU, the respondents had complete access. She did not accept that the respondents visited "a lot". She accepted they had been more frequent at the beginning but their visits had tailed off. By the end of the older sibling's time it hospital it was left in a room by itself with no visitors for days at a time. Catherine Stewart described it as "heart-breaking" to see how this affected the development of the older sibling's bond with its parents. When the respondents did visit, hospital staff had concerns because their visits were quite short and the first respondent appeared to have difficulties engaging with the older sibling. As the time approached for the older sibling to be discharged from hospital, arrangements were put in place so that the first respondent could spend overnight with it. The older sibling was placed in a private room with an extra bed to accommodate the first respondent. These arrangements were in place for about seven nights preceding the older sibling's discharge from hospital. On the information available to Catherine Stewart, the first respondent managed only two of these overnight stays. (In her oral evidence, though

not in her affidavit, the first respondent stated that she stayed overnight in hospital more than this.)

[41] Gloucestershire social services decided that the first respondent and the older sibling should be provided with substantial support when the older sibling came out of hospital. (It is fair to say that the parties presented radically different pictures of the nature of the support offered to the first respondent and to the older sibling.) As noted above, the first respondent presented a very different picture of the relationship she had with, and support from, Gloucestershire social services. It is necessary to outline her criticisms, in order better to understand Catherine Stewart's responses to these. For her part, the first respondent was unhappy with what Gloucestershire social services proposed. On her evidence, Gloucestershire social work department promised her a placement in a mother and baby unit, whereas she and the older sibling were placed with a foster carer. The first respondent stated that she found the foster carer to be "controlling" and "placed obstacles" in the way of the first respondent establishing a relationship with the older sibling. She had other complaints that the foster carer's home was dirty (she mentioned a rusty window), or otherwise was unsuitable (by reason of steep stairs). She also suggested that the foster carer consumed excessive alcohol; that she had once left the older sibling in the sun (resulting in a sun burn); and that on one occasion she had discouraged the first respondent from heating milk for the older sibling. The first respondent maintained that she had been provided with "no support" by Gloucestershire social work department.

[42] Catherine Stewart responded to these criticisms, as follows:

(1) It was unusual for family members to visit placements of this nature. In relation to the first respondent's specific complaints, she did not understand what was meant by the foster carer's home being "unsuitable". This foster

carer had been through all of the assessments. It was a suitable property for a mother and baby placement. It was not in poor condition. A member of the social work department visited the foster carer's home five times a week during the placement. In relation to the first respondent's comment that she felt controlled, Catherine Stewart explained that at the start of the placement the first respondent was not permitted to go out on her own with the older sibling. In the placement she was able to spend time one-to-one with the older sibling. The first respondent and the older sibling spent most of their time in the first respondent's bedroom. She accepted that it can feel intrusive when the foster carer was monitoring the first respondent's management of the baby, which she was obliged to do. She did not understand the first respondent's complaint that the foster carer "put up obstacles". The purpose of a full-time 24-hour placement was to give the first respondent a chance to bond with the older sibling. The foster carer was experienced. Gloucester social services very much wanted the placement to succeed. They wanted the first respondent to bond with the older sibling. There were discussions with the foster carer about the amount of time the first respondent spent every day on the phone with the second respondent. This led to concerns that the placement was being undermined by this level of contact between the first and second respondents. However, she did not recall any threat to take away the first respondent's mobile. Even during the placement, which lasted about five weeks, there were concerns about the older sibling's development at that time. It was observed to avoid eye contact with the first respondent and to turn its head away from her face.

(2) In relation to the first respondent's contention that she had been promised a placement at which the second respondent could also reside, this was something that Catherine Stewart would not have promised. Further, she would not have promised a place in a mother and baby unit. These were extremely expensive and had to be agreed to by the court and by senior management. In any event, in her view, a mother and baby placement with a foster carer was a more nurturing environment. She explained that initially the focus would be on the first respondent and her developing a relationship with the older sibling. Accordingly, at the start of the placement the second respondent would not be able to visit the first respondent and the older sibling there. It was normal to have a high level of control at the start of a placement, which could be relaxed later on. Both of the respondents had had it explained to them that the placement could be progressed if it went well, meaning the level of control could relax. She stressed, though, that no promises would have been made at the outset. Such decisions were not for her. She also recalled that there was a risk of the respondents absconding, as there had been a threat made in the English court proceedings to abscond. This threat was communicated to Gloucester social services from one of the first respondent's family members. The first respondent had spoken of running away with the older sibling, so there was a need to build up trust before the placement could progress to include contact between the second respondent and the older sibling. In relation to the exclusion of the first respondent's own family members, Catherine Stewart explained that they were assessed as posing a potential risk to the older sibling and to the progress of the placement. Gloucestershire social

services had a duty of care to protect the foster carers. It was their home and it was very unusual for family members of those in placements to be allowed to visit.

(3) In relation to the hair samples taken for drug testing, the first respondent had tested positive for cannabis. The samples had been taken for the purposes of the English court proceedings.

(4) In relation to the first respondent's assertion that she had been provided with "no support" by the Gloucestershire social work department, Catherine Stewart profoundly disagreed with this. At the time of the older sibling's birth, the first respondent was still herself a child in care. She had several support workers. These included a social worker, an advocate and a midwife. She had professionals visit her at the placement every day and there were a range of supports in place for her.

(5) In relation to other criticisms of the placement, Catherine Stewart could not comment on the milk episode or on an occasion when the older sibling was left in the sun. These were small incidents and they did not inform the decisions about the older sibling. She was not aware of any reason for the foster carer to have bad feelings towards the first respondent or the older sibling. In relation to the suggestion that the foster carer had engaged in the consumption of excessive alcohol, Catherine Stewart had never heard this allegation before. It was not raised at the time and had it been, it would have been addressed by the local authority.

(6) In relation to the first respondent's contention that Catherine Stewart refused to take calls, this was not true. It may be the case, that by reason of other

professional commitments, she would not be able to take a call when it came through. She always endeavoured to return these.

[43] She also responded to passages in the second respondent's affidavit:

(1) There is a passage in the second respondent's affidavit which he described being intimidated by Catherine Stewart when in a room with her. He had not mentioned feeling this way at the time. She was sorry he felt this way but in her view she had done nothing objectively to make him feel intimidated. He had the support of mental health professionals. Her role was to carry out the parenting assessments, and this could be challenging. The second respondent also had the high-level support, including a community psychiatric nurse, which was significant. There was no more support that could have been offered to the second respondent in respect of his mental health.

(2) On the issue of the second respondent's verbal abuse and volatility, Catherine Stewart regarded this as a risk factor for the older sibling, if it were exposed to such conduct. At times the second respondent's mental health seemed to be unpredictable despite the support he received from mental health professionals. A baby required a calm home environment with a regular routine, not one with shouting or unpredictability. There were therefore concerns as to how the older sibling would experience the home environment if the second respondent formed part of it.

(3) In relation to the paternity test, this was necessary at the time because someone else had come forward claiming to be the father of the older sibling. This had to be clarified in order to afford the correct person parental rights. She could understand why the second respondent was angry about this, but this was

necessary and his paternity had been confirmed. Nonetheless he had submitted a complaint about her. The basis of this, so far as she could recall, was that he felt discriminated against. It was her recollection that the second respondent complained about quite a few people.

[44] Turning to the issue of how the placement came to an end, Catherine Stewart explained that it was not true that the placement had ended in the way the first respondent described. Catherine Stewart confirmed that on an occasion when the first respondent was late returning from a visit on her own with the second respondent, the foster carer did not wait any longer and returned home with the older sibling, ie without the first respondent. (It should be noted that from the evidence, which was not entirely clear, the first respondent returned late more than once from a visit on her own with the second respondent.) As the first respondent presented this incident, she was only a few minutes late, had texted the foster carer, and could not believe it when the foster carer left with the older sibling. This led her to call 999 and to report the older sibling being kidnapped. Catherine Stewart disputed this version of events. She explained that the first respondent had entered into an agreement about these visits and the time limits within which she had to return. It was necessary to have and to reinforce boundaries. It was not correct that the first respondent was only a few minutes late. When the first respondent failed to return timeously, the foster carer had phoned social services. She had been advised to return home with the older sibling and not to wait for the first respondent any longer.

[45] There are sharply differing views on the evidence as to what happened next. The first respondent claims she was told she could not return to this placement. However, Catherine Stewart rejected this. It was not correct that the placement had ended upon the foster carer driving away with the older sibling or that the first respondent had been told not

to return to the foster carer. On the contrary, the first respondent was strongly encouraged to resume the placement. It had been kept open for a further seven days. Gloucestershire social services had contacted the first respondent every day for a week urging her to return and, meanwhile, the older sibling stayed in the placement with the foster carer. The first respondent chose instead to live with the second respondent and not return to the placement. So, with the agreement of the court case guardian, that placement was ended. It would have been open to the first respondent to return to the placement if she had chosen to do so.

[46] She also rejected the suggestion that the respondents were not allowed contact with the older sibling after the foster care placement ended. At that point, Gloucestershire social services continued to encourage contact between the older sibling and the respondents. They proposed supervised contact visits three times a week: two visits by the first respondent with the older sibling, and a third with both respondents attending the contact centre. The first respondent was unhappy with this and, at her request, Gloucestershire social services changed the proposed arrangements for contact so that both respondents could attend all three of the sessions proposed each week. Notwithstanding these new arrangements, the respondents attended only one or two out of a possible 12 sessions of supervised contact with the older sibling. Thereafter, Gloucestershire social work department initiated proceedings with a view to releasing the older sibling for adoption.

[47] Turning to the parenting assessments undertaken by Catherine Stewart, she was surprised when it was put to her that the respondents were unaware that she was undertaking such assessments. She had first attempted parenting assessments shortly after the older sibling was born but these were incomplete by reason of the respondents' lack of engagement. A second attempt at undertaking parenting assessments was undertaken in

relation to the court proceedings in England in respect of the older sibling. The respondents both attended two sessions that she had planned. Her perception was that the second respondent was keen to talk about his own family history and how it functioned; most of his focus was on his own needs rather than those of the older sibling. The first respondent was much more unwilling to engage, in particular to discuss her own family circumstances.

[48] Furthermore, the respondents had received copies of the plan and of both parenting assessments. In her view, the respondents were fully aware that parenting assessments were being undertaken and the purpose for these. She had repeatedly used the word "assessment" and did not believe there could be any misunderstanding on the part of the respondents as to what she was undertaking. It had been made clear to both parents what the assessment process was. The timetable for this was sent to them and their solicitors, whom they had at the time, and who could advise them about the assessment process and what it meant. At the time proceedings were raised in England, the court asked for parenting assessments. This would have been discussed in court and agreed with the respondents' solicitors. She explained that it was unusual to have a second parenting assessment conducted by the same social worker, but this afforded an additional opportunity for the respondents to engage with the local authority.

[49] Having regard to the outcome of the foster carer placement, and the respondents' failure to visit the older sibling on 10 or 11 of the 12 opportunities for contact in the weeks following the breakdown of the foster care placement, Catherine Stewart's view was that the first respondent chose her relationship with the second respondent over being a mother to the older sibling. In her view, the placement with the foster carer was very supportive, but it did not work out for the first respondent because she could not be with the second respondent in that placement. Ultimately she left that foster placement and she left the older

sibling so that she could be with the second respondent. In her view, this demonstrated that the first respondent could not prioritise the needs of her child. The respondents were simply unable to sustain the necessary engagement or to work with professionals to bond with the older sibling. By this time there were court proceedings and the respondents had solicitors and legal representation. From this she concluded that the first respondent would be unable to take care of the older sibling in a safe and secure manner. In relation to the second respondent, she was of the view that he presented a real risk to the older sibling's safety. The respondents' lack of engagement was not confined to the parenting assessments. The respondents did not turn up for the sessions fixed for this purpose. Nor did they take on board the advice from the NHS or the local authority about being there for the older sibling. It was premature, in an incubator but left by them in a room on its own.

[50] The parenting assessments that Catherine Stewart prepared for each of the respondents were produced in process. The focus was primarily on certain key issues and how these had an impact on each respondent's "ability to provide care sufficient to meet the child's needs". The particular issues identified were:

- [Each respondent's] ability to meet all the basic care needs of [the older sibling] in a community environment.
- [Each respondent's] ability to keep [the older sibling] safe, recognise risk and maintain a protective home environment.
- [Each respondent's] ability to work with range [sic] of professionals, keep appointments and follow advice about [the older sibling's] care.
- [Each respondent's] knowledge of child development, appropriate parenting and [the older sibling's] needs.
- [Each respondent's] ability to look after [himself or herself], both physically and emotionally."

[51] In substance, her conclusions in respect of the first respondent were as follows:

> "Summary
>
> I would remain extremely concerned about the level of care that [the first respondent] could afford [the older sibling] in the future. While I accept that [the

first respondent] is young, vulnerable and lacks a solid base of safe parenting herself, I believe she is unable at this time to meet the needs of [the older sibling]. Throughout this assessment she has struggled with most aspects of safe parenting. [The first respondent], in my view, does not have the emotional resilience or maturity to accept what needs to change about her own lifestyle in order to care for a child. I have found it difficult to work with her in an open and congruent way as [the first respondent] often calls on other professionals to contradict decisions. [The first respondent] and [the second respondent] have made frequent complaints to the department and, at times, have been verbally abusive. She has not engaged fully with the parenting assessment and our relationship has often been problematic.

[The first respondent] has not in my view demonstrated an ongoing commitment to [the older sibling]. I do not believe this is because she openly rejects [it] but believe this is because she does not know how to and she lacks the skills and understanding to adapt to being a mother. [The first respondent] has not fully engaged with [the older sibling] since [it] was in hospital and since leaving placement, her commitment to seeing [the older sibling] has been minimal.

It is a shame that attempts to engage [the first respondent] with a therapeutic service have not been successful as I feel [the first respondent] needs this support in order to move forward. [The first respondent's] relationship to [the second respondent] remains of concern as she seems to prioritise this above every other aspect of her life, including [the older sibling]. Her understanding of a healthy relationship is limited and she would likely accept behaviours from her partner that other young women would not. She remains extremely vulnerable and her current situation does not have any degree of stability.

I believe that [the first respondent] and [the second respondent] have sought each other out for a relationship as their vulnerabilities compliment each other and together they have formed a mutually-accepting relationship. My opinion is their relationship will hinder their individual progress in addressing the very vulnerabilities which attract them to each other.

Sadly, I do not feel there is any situation which could be presented where [the first respondent] could safely parent [the older sibling] in the future. Her emotional engagement with [the older sibling] has already led to significant concerns about [it's] development and her lack of commitment to [the older sibling] has not demonstrated any foreseeable shift in her ability in this respect. I do believe that [the older sibling] would be at risk of significant harm in her care under any circumstances.

<u>Recommendations:</u>

- I am not recommending that [the older sibling] is returned to [the first respondent's] care and another plan for permanence should be sought."

[52] Her conclusions in respect of the second respondent were as follows:-

"Summary

I would be very worried should [the second respondent] have care of [the older sibling]. He has not engaged with this assessment in any meaningful way and, in my opinion, has shown a limited commitment to [the older sibling]. I believe this is evidenced from his lack of attendance at the hospital, professional meetings, sessions for this assessment and recent contact. It is a shame that [the second respondent] has not engaged in this assessment as an understanding of his knowledge and views would have enriched the value of this work and helped [the older sibling] to understand [its] father better. I feel [the second respondent] wants what is best for [the older sibling] and, at times, he has shown insight into the enormity of his difficulties and how this would affect [the older sibling]. He has, on one occasion, asked for [the older sibling] to be adopted. His recent disengagement from contact with [the older sibling] seems to indicate his acceptance of this outcome as a possibility.

Sadly, [the second respondent] has had a difficult, unstable and traumatic childhood. He has experienced childhood violence and rejection from his parents, combined with frequent moves and a family history of social care involvement. [The second respondent] has a diagnosis of borderline and antisocial personality disorder, which is likely exacerbated by his difficult childhood experiences. [The second respondent's] mental health diagnosis would mean he would struggle to understand social situations and regulate his emotional responses. Throughout this assessment, he has demonstrated a volatile and haphazard approach to the plans for [the older sibling]. [The second respondent] has mental health support and has told me he has had therapeutic intervention. I am unsure what intervention he has received but my opinion is that he is unlikely to be able to stabilise his situation without extensive therapeutic help.

[The second respondent] has a history of short-term relationships and has fathered four children who he no longer has contact with. I feel this is an important factor in determining his likely commitment to [the older sibling] in the near future because I do not feel [the second respondent's] current presentation demonstrates a shift in behaviour or stability.

I believe that [the first respondent] and [the second respondent] have sought each other out for a relationship as their vulnerabilities compliment each other and together they have formed a mutually-accepting relationship. My opinion is their relationship will hinder their individual progress in addressing the very vulnerabilities which attract them to each other.

I believe that [the second respondent], at this time, would not be able to safely parent a child in the community or under any other circumstances. His mental health issues are too pervasive and unpredictable to offer stability and safety to [the older sibling] and his lifestyle remains chaotic and risky."

[53] Turning to her involvement once the respondents were expecting their second child, Catherine Stewart confirmed that she was aware when the first respondent was expecting the respondents' child and she started the child protection process in respect of the unborn baby (ie the child). The first respondent's position remained that she did not wish to engage and this aspect of her behaviour did not change.

Cross examination on behalf of the first respondent

[54] Certain passages of Talia Underwood's affidavit were put to Catherine Stewart (concerning the number of visits by the respondents to the older sibling in hospital), but she could not comment on her evidence.

[55] It was put to her that the first respondent had been promised a placement in a mother and baby unit. Catherine Stewart explained that the various options would have been discussed. Placement in mother and baby units varied in nature. Some were in assessment centres; some were in self-contained flats or sharing with others. A foster care placement for the mother and baby, such as had been arranged for the first respondent in this case, was more supportive. While a mother and baby unit might have been discussed it would not have been promised. She did not have power to offer that. She accepted that the first respondent might have misinterpreted this, but she explained it would not have been the only option discussed with her. When asked if the first respondent might have been surprised not to be placed in a mother and baby unit, Catherine Stewart reiterated that the first respondent knew several weeks before the placement began what kind of placement it was going to be. She was sorry if the first respondent felt disappointed. She also rejected the proposition that there had been a promise to the first respondent that the second respondent could be part of the placement. It would never have been the case that the

second respondent would have been allowed to live with the first respondent at the foster carer's house. At the beginning, the intention was to support the first respondent to bond with the older sibling.

[56] She was asked if there was a plan after "the beginning" of the placement. She could not answer that question because the placement did not progress and the care plan did not proceed as Gloucestershire social services had intended. Gloucestershire social services' plans had changed. Ideally, they were working toward a plan of the family being together but that didn't happen. She was asked if this meant the first and second respondents living together, and she replied yes, but not in the placement and it would also depend on the English court proceedings. It was put to her that if the first respondent were not in a mother and baby unit and if, additionally, the second respondent was not allowed to reside there, that the first respondent might be surprised by all of this. Catherine Stewart stated that she was surprised that the first respondent did not understand that plan, as Gloucestershire social services had made its plans very clear to both of the respondents. Catherine Stewart confirmed that the plan had been for the family to be together. Gloucestershire social services had put in a great deal of support in order to facilitate this, including the foster care placement and the opportunities for supervised contact after that broke down. Unfortunately, the placement didn't progress and neither did the care plans as the local authority had intended.

[57] She was challenged on her observation that the first respondent "hardly" attended the hospital. Catherine Stewart disputed the contention on behalf of the first respondent that she visited "frequently". In comparison to the times when the respondents could have visited, their visits were infrequent and for relatively short periods of times, as had been accepted by the judge in the English proceedings. Toward the end of the older sibling's stay

in hospital, when it was in a special room, it was left on his own for days at a time and she explained that this can be really damaging for a baby.

[58] Catherine Stewart accepted that as a looked after child herself, aged only 17, with a young child and little direct contact with her own family, the first respondent would have found the placement difficult. She could not recall a discussion about removal of the first respondent's mobile phone. She confirmed that the first respondent's hair sample tested positive for cannabis. She also confirmed that there was no issue about drugs or alcohol in the older sibling's blood at birth and that there were no real concerns during the placement about the first respondent's use of drugs or alcohol in front of the baby. This was not a concern that arose in respect of the first respondent.

[59] A series of questions were put to Catherine Stewart about the daily tasks the first respondent would have done for the older sibling while in the placement and while the older sibling was with the first respondent in her bedroom. Catherine Stewart accepted that these will include the usual daily tasks for a small baby, but that the first respondent had significant supervision and support during her time in the placement. She accepted it would be a stressful situation for the first respondent. It was put to her that there would have been more focus on the first respondent by reason of the older sibling being a premature baby and that the first respondent had dealt with this. Catherine Stewart demurred from the suggestion. The first respondent did not visit hospital and this affected the older sibling's development. The foster care placement had started well but it did not take long for concerns to arise. Gloucestershire social services wanted the first respondent to succeed in this. She accepted that there was no deliberate physical mistreatment of the older sibling.

[60] It was put to Catherine Stewart that, at the point when the first respondent did not return to the placement, this had been the first occasion of the first respondent being late. Catherine Stewart did not believe this was the first occasion. Catherine Stewart referred to the first respondent calling 999 and reporting that the older sibling had been "kidnapped". She accepted there was a difference in view as between the Gloucestershire witnesses and the first respondent about how her foster care placement ended. There was a clear agreement of how late the first respondent could be when being picked up by the foster carer. The first respondent went over that limit. The foster carer contacted Gloucestershire social services and she was told to take the older sibling back to the placement. It was not a matter of being just two or three minutes late, as the first respondent suggested. In any event, there was a firm agreement about this. Catherine Stewart was pressed a number of times that the first respondent had, at least, called to say she would be late and that this demonstrated her being "responsible". Catherine Stewart did not accept this. While the first respondent had sent a text, she had not turned up for her lift from the foster carer back to the foster care placement. This breached the agreement she had referred to. There needed to be rules and boundaries. She accepted it may not have been easy for the first respondent to understand this but the foster carer could not sit around waiting with the older sibling in the car. It was put to her that this was how a 17-year-old might react, but Catherine Stewart explained that the first respondent proceeded to call 999 and to report the older sibling as having been kidnapped. This was not right. Further, even after this episode the placement remained in place for the first respondent.

[61] She was asked about the diagnosis of post-natal depression made by Dr Petrie. Catherine Stewart accepted that the first respondent was vulnerable herself; that was

established and accepted. However, it remained the case that the baby's needs were still a priority.

[62] On the issue of how the placement ended, her line manager, Naomi Gillard, had spoken to the first respondent that day. No "promise" was made of a new placement thereafter, because the first respondent did not indicate that she would return. She had been asked several times if she wanted to return and she said she did not want to.

[63] Catherine Stewart was questioned about the parenting assessments. In substance her evidence remained the same as her evidence in chief. The purpose of the assessments had been fully discussed and explained. To the extent there were limited contacts for this purpose, this was because of the non-attendance by the respondents. Other parts of her parenting assessment were explored in cross, namely:-

(1) As regard her use of the word "abandoned", in her view this is what had happened. Certain observations were put to her as "positives" about the respondents. She accepted these, and she confirmed that there was never a concern about the older sibling not getting enough nourishment or being malnourished. In relation to the concerns about the first respondent's hygiene, it was put to her that this was just a teenager having dirty cups in her bedroom. Catherine Stewart did not agree. It was a small bedroom and the first respondent had a baby with her. It remained the case that there were concerns and one had to look at the stage when babies became toddlers. It didn't matter that at this stage the older sibling could not reach the dirty cups; this was not sufficient to reassure her.

(2) Other passages were put with the focus being on her use of the past tense, but projecting into the future. Catherine Stewart explained it was necessary to

consider issues such as safety throughout childhood. The first respondent showed quite limited understanding of safety. While there were no concerns about the older sibling's physical safety, this was because the first respondent and the older sibling were in a very supported and protected placement. In respect of the comment about "emotional warmth", it remained her position that being unvisited for days at a time was a long time for a young baby. Asked if the first respondent's post-natal depression could explain the lack of contact, Catherine Stewart accepted that it could, but she also emphasised that the first respondent had been offered extensive support. She asked for support and was provided with it.

(3) She was asked about the observation that the first respondent was not speaking to the older sibling. Catherine Stewart confirmed this was her understanding: the first respondent did not speak to the older sibling while others were present and this was surprising. It was suggested that the first respondent may have been feeling "controlled", which Catherine Stewart accepted might be possible. It was suggested that she was unable to comment about the periods of time when the first respondent was mostly in her bedroom and that her concerns about lack of stimulation were unfounded. Catherine Stewart rejected this. Stimulation was important to the older sibling's emotional development and its attachment behaviour. In her opinion, the older sibling was left on its own for significant periods of time. Matters reached the point where it actively turned its head away from the first respondent if she approached. This was extremely unusual and the advice of a professional paediatrician had been sought. By this point the older

sibling was even avoiding eye contact with the first respondent. The health professionals had observed this.

(4) In relation to the comment in the parenting assessment that the first respondent was "unable to care", it was suggested that this was about the future. Catherine Stewart agreed. This had been prepared for the court proceedings and it was necessary to consider how the first respondent might manage in the future. The same comment applied to her observations about "stability". She confirmed, that eye contact by the older sibling was "minimal". The health visitor had noted this. It was put to her that the first respondent has spent a lot of time with the older sibling. Catherine Stewart's understanding was that the first respondent was in her room on her bed and on the phone to the second respondent, while the older sibling was in its cot. She was asked about this again at a later point. It was put to her that as the first respondent spent most of her time in the bedroom, she could not readily be observed by others. The first respondent might have been talking and singing. Catherine Stewart replied that that would have been heard by the foster carer. What the foster carer had heard on occasion was the first respondent swearing at the older sibling.

(5) Catherine Stewart was pressed in cross that the foster carer would not be able to observe or exercise oversight of the first respondent while she was in her bedroom with the older sibling during the placement. It might have been that she talked to the older sibling in her bedroom. Catherine Stewart maintained her position that the first respondent was observed not really to speak to or engage with the older sibling. She did not do this while others were present, which was surprising, but one would have expected the foster carer to be able to hear this –

as she had overheard the first respondent swearing at the older sibling. Her concerns were not just about the lack of stimulation by the first respondent when she was on her own with the older sibling, but about the older sibling's emotional development and its attachment behaviour. Her concerns persisted, because the older sibling had been left on its own for significant periods of time and the observations by professionals of it actively turning its head away from the first respondent if she approached. The paediatrician confirmed there was nothing wrong but the professionals had all observed this behaviour, which was very concerning.

(6) In relation to the first respondent's own family background, she acknowledged the first respondent's experience was difficult, given her own childhood, but the parenting assessment required to address this. She accepted that there were positives when the first and second respondent were together with the older sibling.

(7) In relation to the positive test for cannabis, it was her understanding that the first respondent's explanation was not accepted.

(8) In terms of the analysis and risk assessment, she confirmed that this was based on material that had been gone through with her in court. She was asked what was the risk to the older sibling's safety. Catherine Stewart replied that the placement was extremely protective and the risks minimised under an interim care order. It was put to her that it was therefore not possible to extrapolate about any risk the first respondent presented. Catherine Stewart maintained her position that the first respondent demonstrated only a very limited understanding of the older sibling's needs and of its emotional development.

That was the risk, not that she intended harm to the older sibling. There was enough evidence for this statement in the parenting assessment.

(9) It was put to her that it was not surprising if the first respondent chose her relationship with the second respondent over being with the older sibling in the placement. Catherine Stewart agreed. She believed that this was why the placement ultimately did not succeed. While in the supported context of the placement the first respondent could look after the older sibling's basic care needs, she was not able to meet its emotional needs. That was the risk. In her view, the first respondent would not be able to look after the older sibling in the community or in a safe way with the second respondent. This was her assessment of the first respondent's ability to care for the older sibling.

[64] Notwithstanding cross-examination, Catherine Stewart adhered to her affidavit and she stood by the parenting assessment she made in relation to the first respondent as well-founded on the basis of the information available to her at that time. Her concerns were not allayed.

[65] Catherine Stewart readily accepted those passages, albeit few, in her parenting assessments that were relatively positive in the descriptions of the respondents' interactions with the older sibling. Overall, her position remained that the placement had been extremely protective and the risks minimised under the interim care order. Nonetheless, the first respondent was unable to persist with this. The first respondent had demonstrated only a very limited understanding of the older sibling's needs. Its emotional development was at risk. She accepted that the first respondent did not intentionally harm the older sibling. The risks were developmental risks, for which she said there was enough evidence.

She maintained her view that the first respondent would not have been able to take care of the older sibling in the community or in a safe way with the second respondent.

Cross examination on behalf of the second respondent

[66] In cross examination on behalf of the second respondent Catherine Stewart maintained her position that the respondents had been afforded many opportunities to engage with the older sibling and with the local authority, which supported them, but that by and large these opportunities had not been taken up. The number of opportunities afforded were, in her experience, quite unusual. She did not accept that the mother and baby foster care placement was unusual, albeit she accepted that there were some unusual care needs arising by reason of the older sibling's premature birth.

[67] Catherine Stewart was challenged that her observation about the older sibling being left for days on end was hearsay. Catherine Stewart did not accept this. This was based on evidence and these facts were accepted by the English court. This came from hospital records.

[68] It was put to her that by reason of the question raised about the second respondent's paternity he would be upset and wary of the whole process. She accepted this. She explained, however, that there was another person who asserted paternity and this required to be investigated. She accepted that this would mean a greater level of interference with the second respondent's personal rights than if there were no court process. She also accepted that the second respondent had not been assessed in a community environment and, therefore, there had been no chance for the second respondent to care for the older sibling in a home environment or to be assessed in that context. She accepted that this was a pressured time for the respondents. She accepted the passages where the second

respondent had been described as remaining calm with the older sibling, and that this was a positive. She also accepted that the second respondent's opportunities with the older sibling had been restricted. She accepted that the standard of parenting accepted by social workers was "good enough care". She agreed that the second respondent had been abusive towards her but that she had continued to work with him. She accepted that many parents were emotionally variable; that in contacts with the older sibling the second respondent remained calm and that that was a positive. She was also aware the second respondent visited his mum and found her supportive. She was aware the second respondent's mum was unwell and needed dialysis. She also accepted that the second respondent struggled to cope with his mother's illness. She was aware that the second respondent's father had also died. Although she did not understand him to be close to his father, this would still be difficult for him. She had observed that the second respondent had difficulty "maintaining relationships", but accepted that he had sustained his relationship with the first respondent.

[69] She disagreed with the suggestion that the second respondent had visited the older sibling "a lot" at the hospital, although she accepted that he did have other personal concerns. She adhered to her statement in the parenting assessment that the second respondent's wish to have the older sibling adopted showed "insight". She explained that the second respondent had phoned. He was upset and felt it was better if the older sibling were adopted. However, he later changed his mind and did not sign the consent forms.

[70] In relation to any risk posed by the second respondent's mental health, she accepted that if he could control it, this would not be a risk. But she stated that he had to demonstrate stability with his mental health. Passages in her parenting assessment were based on historical evidence and police records. This had included some material about domestic violence towards a prior partner and some police involvement. She confirmed that the risks

identified before the older sibling's birth had subsisted after its birth (ie as reflected in the parenting assessments). She identified the same risks. This was reasonable because this was only two months later. She accepted she had no direct contact with the respondents after about July 2016.

Re-examination

[71] In re-examination she confirmed she had had no contact with the respondents latterly, because they did not want to meet with social workers or to get involved with Gloucestershire social services. The proceedings in relation to the older sibling finished in September 2016. In relation to a case conference on 17 October 2016 in relation to the child, she confirmed the respondents would have been invited to this. It would have been normal practice to send to parents in advance the recommendation to be made at that case conference. She also explained that the parents would have received a separate invitation from the chair to attend this conference. The respondents knew about the case conference.

Naomi Gillard

Affidavit

[72] Naomi Gillard gave her evidence via a livelink. She adopted her affidavit. As noted above, there is considerable overlap with the affidavits of the other Gloucestershire witnesses. She had minimal direct contact with the respondents. Much of her evidence is reliant on entries or documents of which she had no direct knowledge. I do not place any reliance on these parts of her evidence. Accordingly, the only evidence I record is where she had direct knowledge of the events, the salient features of which were as follows.

1) She had worked for Gloucestershire county council from September 2009 to March 2017. She was a deputy manager in the social work department from about November 2015.

2) David Shaw was an experienced social worker and she was not aware of any complaints directed against him. The focus initially was to work with the respondents and to assess their parenting capacity. There were engagement issues and she reallocated the case to Catherine Stewart. In any event, David Shaw was leaving. Naomi Gillard also dealt with the respondents when Catherine Stewart was unavailable or on leave.

3) A pre-birth parenting assessment was carried out by Catherine Stewart. The recommendation was to place the unborn child on a Child Protection Plan under the categories of neglect and emotional harm. Naomi Gillard signed off on this assessment.

4) After the placement broke down and the first respondent had left it, Naomi Gillard explained that she tried to persuade the first respondent to go back to the placement. The first respondent refused to do so. She was very negative about the placement.

5) Preparations were made for a Full Care Order and a Placement Order, which were eventually granted. The older sibling's file was passed to a different team within Gloucestershire County Council to progress the older sibling's adoption.

6) Naomi Gillard became aware that the first respondent was pregnant again quite quickly after she had had the older sibling. She stated that the respondent had "fled" to an unknown location. She described having concerns that the first respondent would go into hiding and have the baby. She became

aware that the couple had gone to Fife. Meantime, the police had entered the respondents' flat in Gloucestershire and had found it to be in a "terrible condition". Photographs showed rubbish, clothes and items strewn throughout. She provided this information to the petitioners. She was aware of an incident involving the second respondent abusing a dog and as a result of which the dog had died. This incident, coupled with the state of the respondents' flat when they left, raised serious issues about the respondents having care of a baby. She also passed this information to the petitioners. Once the referral had been made to the petitioners her involvement in the case finished.

Examination in chief

[73] Dr Petrie's diagnosis was put to her. She confirmed that it would not have changed her approach or have led her to do anything differently. From her involvement with the first respondent, there were concerns about post-natal depression and the first respondent's mental health generally, but it was difficult to get an assessment of that by reason of her non-engagement.

[74] Under reference to several paragraphs in the first respondent's affidavit, she confirmed that she was aware that the first respondent struggled to work with David Shaw although she was not aware of any complaints. She no longer worked for Gloucestershire social services. David Shaw was an agency worker and he left because he lived far away. He was not dismissed. In relation to the foster care placement, she explained the foster carer became involved while the older sibling was still in hospital. This was to assist with the transition. The foster carer was one of Gloucestershire social services' more experienced

carers. It was a good, nurturing placement. When the first respondent first went there she did have difficulties settling in. There can be a number of reasons for this. She wasn't allowed out on her own with the older sibling, because of their concerns for its safety. She visited the foster carer's home on numerous occasions and always found it well-presented, homely and warm. She had not visited it during the first respondent's placement and could not comment on that specific timeframe. However, neither she nor Gloucestershire social services had any concerns about its suitability. The foster carer was of long-standing and was still taking placements.

[75] In respect of the level of support, while the first respondent might feel she had been "given no support", she had support in the form of her own social worker, a social worker for the older sibling (ie Catherine Stewart), a foster care placement and a team around the baby. This was a lot of support. The first respondent really struggled to engage with this and so she might have felt unsupported. However, she was given adequate and effective support. Turning to the end of the placement, she could remember the telephone call she had with the first respondent, although she could not recall who had initiated it. She did not promise a new placement. She spent a long time trying to persuade the first respondent to return to the placement. She discussed the first respondent's concerns with the placement and what could be done differently. She spoke to the foster carer who was happy for the first respondent to return, but the first respondent was adamant that she would not return. This led to the situation where all that Gloucestershire social services could support was supervised contact and parenting assessments. It was categorically not true that the first respondent was not allowed contact with the older sibling after the end of the placement. Gloucestershire social services moved contact to a supervised contact centre in Cheltenham. She could not recall the precise details of who was to attend, as between the first and second

respondent, but supervised contact was offered to both. The parenting assessment could progress in this context. However, their attendance at the contact centre was "incredibly poor" which resulted in Gloucestershire social services terminating those arrangements.

[76] In relation to the respondents' visits to the older sibling while it was in hospital, she could not usefully comment as she did not have access to the hospital or other records. She could recall that it deteriorated over time and the visits became less frequent.

[77] In relation to the first respondent's denial of non-engagement, she explained that the first respondent was supported by an advocate and also had the benefit of legal advice. Gloucestershire social services had an interim care plan in relation to the older sibling. This was clearly discussed as part of the child protection process and also in court. There was discussion of the assessment process and what was expected of the first respondent. Normally an agreement would be written up, especially for a mother and baby placement. She was confident the first respondent had been told about the parenting assessment and what that meant; this was part of the court process and the child protection process.

[78] Similar passages from the second respondent's affidavit were put to her, but she could add nothing to what she had already stated. She acknowledged that the second respondent felt his mental health was used against him. His feeling this was one thing, but Gloucestershire social services had hoped that he would be able to get through the parenting assessment and it would be able to assess his ability to meet the day-to-day needs of the older sibling. His mental health was not held against him but his engagement was difficult so it was hard fully to assess this issue. She was aware that the second respondent did not get on well with Catherine Stewart, although she was not aware he had made a complaint against her.

Cross-examination on behalf of the first respondent

[79] She could not comment about what transpired at the core group meeting on 1 February 2016, and to which the respondents attributed the premature birth of the older sibling. She was not present. She did not have access to the Gloucestershire records. She did not recall unflattering comments made about the first respondent's family at any core group meeting she attended. She did recall a conversation with the first respondent about the impact of her family background on her ability to look after the older sibling. Nor could she recall any complaint being made against David Shaw. The case was reallocated because he was an agency worker and only with Gloucestershire for a short time. She confirmed he did not leave by reason of any complaint.

[80] It was put to her that the first respondent did not regard the second respondent as "controlling". The witness confirmed that these concerns subsisted. The controlling nature of the second respondent was borne out by observations and the first respondent's inability to engage in the placement assessments. The perception was that the placement was undermined by the second respondent.

[81] In response to a question that the first respondent's post-natal depression could explain her non-engagement, rather than the second respondent being controlling, the witness explained that many factors would have impacted the first respondent at this time and which made her vulnerable to post-natal depression. She was not at all surprised if this were the case. Gloucestershire social services were very concerned about her emotional and general well-being, given her own life experiences, her relationship with the second respondent, her own vulnerabilities and being a child in care. These were all contributing factors.

[82] Without access to the hospital or social work records, she could not confirm the frequency of the first respondent's visits at hospital. So far as she could recall, the first respondent spent only one night overnight to the end of the older sibling's stay in hospital. She did visit frequently at the beginning but that was not maintained. The first respondent was not promised a place in a mother and baby unit. She herself did not recall a discussion about this with the first respondent. These were rarely used in Gloucestershire. The local authority's plan was for a mother and baby foster care placement.

[83] She confirmed she remembered a call with the first respondent after the placement had ended. She resisted the suggestion that the first respondent had been promised another placement. Her focus at the time was to persuade the first respondent to resume the placement. It was not terminated. The first respondent refused to go back. She understood the first respondent believed the placement had been terminated. After being pressed quite hard, Naomi Gillard accepted that she might have suggested "considering" a new placement. However, she was certain she had a conversation with the first respondent about the incident which the first respondent believed terminated the placement. Naomi Gillard had explained to her that, notwithstanding that incident, the placement was still open and Gloucestershire social services wanted to support her to return to it. She could not comment on the proposition that it was disproportionate for the foster carer to drive off, given the first respondent had texted. So far as she could recall, it was not the case of the first respondent being "a little late"; she was quite a lot late but she would need to check the records to confirm that.

[84] Finally, in relation to the state of the flat shown in photographs, she confirmed this was relevant from a child protection perspective. This would be the environment in which the older sibling would be raised and the amount of dirt and mess shown would not be safe.

She was aware that Catherine Stewart could not gain access for a home visit and she surmised that the state of the flat might have been the reason why.

Cross-examination on behalf of the second respondent

[85] She confirmed that, as a line manager, she would oversee five or six social workers, each of whom had between 16 and 20 cases. She did not have much direct contact with the first respondent. She did so if Catherine Stewart were busy. She had had contact with both respondents. She met both when the older sibling was born. She might have only seen them together on one occasion, ie interacting as a couple. It was put to her that the respondents' relationship had moved on since her comment about the concerns it gave rise to. She could not comment as she had not seen the respondents since this time.

[86] She accepted that initially there had been no plan to assess the second respondent with the older sibling. The intention had been to observe him at contact sessions and to complete the parenting assessment that way. She understood that his contacts with the older sibling were quite good, however she did not have direct knowledge of this. She readily accepted that the premature birth would have been very stressful for both respondents. In relation to observations about domestic violence or acts of physical abuse, she confirmed she was not aware of any physical abuse between the first and second respondents. She confirmed that her use of the term "abuse" referred to the perception that the second respondent was "controlling".

[87] A discrepancy in the evidence about the circumstances leading to the end of the placement were put to her. The first respondent's position was that she was going to be late and had texted the foster carer, whereas Catherine Stewart had said it was after a visit with the second respondent (ie not at a contact centre). Naomi Gillard confirmed that

Catherine Stewart was correct. She reiterated that the first respondent was more than a few minutes late. The placement was not terminated and she had absolutely reassured the first respondent about this. She described talking at great length with her about what Gloucestershire social services would do to support her to go back. It may be the case that the first respondent thought it was terminated at the time; this was so only until Naomi Gillard confirmed to her that it was not terminated.

[88] She was challenged on the basis that the foster carer had a dual responsibility: she was there to support the mother but also to protect the child. Naomi Gillard accepted this was always a potential. If the mother could not engage then this would cause difficulties.

[89] Finally, she was challenged on her use of the phrase "serious detriment". She accepted that this was just her opinion and that she was able only to speak in relation to the older sibling. However, she referred to the respondents' history, non-engagement, their experience of real difficulty in their own lives; all of this affected their ability to parent or to understand the needs of a child. She would have serious concerns about any baby in their care.

Re-examination

[90] The only topic in re-examination concerned the respondents' belief that the older sibling had been kidnapped. This would have no foundation, because part of the interim care order was that if the first respondent left the placement, then the foster carer had sole responsibility for the older sibling until other plans could be made by Gloucestershire social services. When the first respondent did not return to the car, the foster carer had a duty to prioritise the older sibling. She confirmed that during the incident in question, the foster carer had had the older sibling; it had not been with the first respondent.

Talia Underwood

Affidavit

[91] Talia Underwood was the social worker with Gloucestershire social services assigned to the first respondent when she was 16. She adopted her affidavit, the salient points from which are:

1) A Care Order had already been granted in relation to the first respondent at that time. She was placed in a supported living placement in Gloucester with several other young people. There was live-in staff on site to provide support. She communicated with the first respondent by calls, text and through the statutory visits which were required every six weeks. She characterised the first respondent's engagement with social services at this time as "very poor". The first respondent would sometimes engage with a social worker during visits but then she would often not answer or return calls.

2) At the time of the first respondent's referral, in July 2015, Talia Underwood had been advised that the first respondent had an ongoing relationship with a 35-year-old man. This must have ended, because she then became aware of the first respondent striking up a relationship with the second respondent in August 2015. From staff at the first respondent's supported accommodation placement, she was aware that the first respondent was staying out overnight with the second respondent. She stated that the first respondent had told her that she had known the second respondent since she was 10 years old. Talia Underwood understood that the second respondent was an uncle of one of the first respondent's best friends.

3) By reason of the substantial age difference between the first and second respondents, Talia Underwood instructed a criminal record check. This was standard procedure when social services became aware of a relationship between a child in care (such as the first respondent) and a significantly older adult. The criminal records check disclosed what she described as the second respondent's previous police record and allegations of domestic abuse. On the basis of this information, a Harbouring Order had been put in place on 26 August 2015, which had the effect of preventing the second respondent from making any contact with the first respondent. This was for the first respondent's protection.

4) The first respondent disclosed to her on 24 September 2015 that she was pregnant. At that time, she stated that the father was another young person being supported by Gloucestershire social services.

5) On about the 15 October 2015, the petitioner was referred to Gloucestershire Children and Family Social Care Team. This arose out of a concern that the first respondent was still having contact with the second respondent. Staff at her placement had reported a number of occasions when the first respondent had called late at night requesting to be picked up, and the location from which she was collected was near the second respondent's address.

6) In the light of the first respondent's pregnancy, an Initial Protection Conference was held on 21 December 2015. The first respondent attended this but was described as not engaging heavily. Concerns persisted that the first respondent was seeing the second respondent without informing the social work department. Following the child protection conference, a decision was made to

place the first respondent's unborn baby (ie the older sibling) on the child protection register.

7) During the course of a home visit by Talia Underwood with the first respondent, the first respondent admitted that the second respondent was the father of her unborn child. She stated she was also aware of his previous criminal convictions. She requested that the Harbouring Order be lifted and that she would not engage with the child protection process unless this happened. This order was lifted in order to allow the respondents to engage as a couple with the child protection process. As soon as that order was lifted, however, the first respondent's engagement with Gloucestershire social services and the child protection process declined. The first respondent stayed over at the second respondent's accommodation but would not let the staff at her placement know her whereabouts. She referred to several dates in early February 2016 illustrating this.

8) Turning to the older sibling's premature birth, Talia Underwood stated that the first respondent was expected to remain at the hospital to support the older sibling during this time. This did not happen. She was aware of this because staff at the first respondent's supported living accommodation required to check each evening at the hospital to see if the first respondent was there. If not, this had to be reported. Her understanding was that the first respondent stayed overnight with the second respondent when she was not at hospital. Talia Underwood would endeavour to contact the first respondent over this period and the first respondent would either not answer the phone or would answer it but tell Talia that she was too tired to discuss anything.

9) In relation to the mother and baby foster care placement, to which the older sibling was discharged on 20 April 2016, there had been an initial meeting planned for 10 am with the foster carer in order to discuss management of the older sibling's health issues. The first respondent did not attend until 11:45 am, by which time that meeting was nearly over. Initially, the first respondent did engage with the mother and baby foster care placement. The first respondent advised her on 26 April that she was getting into "a good routine" with the older sibling but complained that she was allowed only four hours of free time a week in which to see the second respondent. However, on 11 May, the first respondent failed to return to the foster placement after a four hour period of free time. She did not return until the following day.

10) Turning to the issue of how the placement ended, Talia Underwood described the first respondent's refusal to return to the mother and baby foster care placement on 23 May 2016. She received a call from the respondents, who had threatened the foster carer and had claimed that they were going to take back the older sibling from her. She explained that the foster carer was sufficiently alarmed that she sought alternative accommodation that night. The next day, on 24 May, the first respondent requested to be allowed to stay in separate accommodation from the older sibling, but to have contact with it during daytime hours. Talia Underwood explained that the mother and baby foster care placement had been kept open for a further seven days, in case the first respondent changed her mind and decided to return. She did not do so.

11) After the end of the placement, the initial plan had been for the first respondent to have daily contact with the older sibling. This would be managed by having

the first respondent call a day ahead and ask for contact. All contact was scheduled to take place at a foster contact centre in Cheltenham. However, contact with the older sibling dwindled quickly and within three weeks there was no further contact between the first respondent and the older sibling.

12) Thereafter the first respondent's engagement with Gloucestershire social services consisted of her receiving her weekly allowance, delivered to her at the second respondent's accommodation.

13) She learned on 21 October 2016 that the respondents had moved to Scotland. She also became aware at that time that the first respondent was expecting again. The first respondent was reported to the police as a missing person. The Homelessness Team eventually found the address in Fife at which the respondents were staying.

14) After the first respondent moved to Scotland her contact with Gloucestershire social services was limited. Talia Underwood had some telephone contact with the first respondent.

15) Talia Underwood explained that in her view the first respondent's contact was largely "financially motivated". On 14 November 2016, the first respondent contacted Talia Underwood to let her know that she and the second respondent left their accommodation and she requested support to pay for a new property. A deposit and initial rent was provided for the new property. The sum of £350 was also provided to the first respondent to enable her to attend court hearings. On 15 December 2016 she, together with Kerry Parsons of the petitioners' social work team, visited the respondents in Fife. She described the purpose of this visit as to check that the first respondent was okay. There was some

engagement during this meeting and the respondents allowed them into their property. At the respondents' request Gloucestershire social services provided items of furniture, including sofas and a washing machine. Cash was not to be provided to the respondents.

16) On 29 December 2016 the first respondent wrote a letter to Talia Underwood, requesting that Gloucestershire social services make no further contact with her or she would sue for "harassment". Since that date, Gloucestershire social services had not initiated contact with the first respondent. Nonetheless, her file will remain open until she turns 21 and Gloucestershire social services will still be there to provide support to the first respondent until that time.

17) Commenting generally, Talia Underwood expressed "significant concerns" regarding the first respondent's ability to support and care for a child. She explained that the decision to place the older sibling on the child protection register from birth had largely been due to the first respondent's previous drug use and episodes of going missing or absconding without informing Gloucestershire social services where she was. She also expressed concerns about the first respondent's relationship with the second respondent. In the absence of their engagement as a couple, she found it difficult to understand the nature of their relationship. In her view, however, the first respondent's engagement with Gloucestershire social services "rapidly declined" following the commencement of her relationship with the second respondent. From what she observed in meetings, the first respondent did not speak much and it was the second respondent who did most of the talking. When she spoke to the first

respondent on the phone, she could often hear the second respondent in the background telling her what to say.

Examination in chief

[92] At the start of examination in chief she also had the terms of Dr Petrie's report put to her. She did not believe anything Gloucestershire social services had done could have been done differently. The difficulty Gloucestershire social services had was with the non-engagement by the first respondent. Gloucestershire social services had made a further attempt at that time to take into account the first respondent's mental health issues. She was not sure what could have been done differently to help with that.

[93] Certain passages of the first respondent's affidavit were put to her for her comment:

(1) She was not aware of the first respondent's complaint against David Shaw at the time. She was in a different department from the children and family services.

(2) In relation to the circumstances by which the first respondent came to be a looked after child, she explained that there had been child protection issues concerning the first respondent since she was two years old. The principal concern was neglect. A care order was not made until 2015. Prior to then there had been ongoing involvement of the social work department and care protection plans which opened and then closed. She remained with her birth family until the care order in 2015. Neglect had been by her mother. There had also been concerns about domestic abuse, although this was before her own involvement in the first respondent's case. At the time of the care order in 2015,

the first respondent was accommodated in a supported living placement in Gloucester.

(3) Talia Underwood confirmed that she was the first respondent's own social worker at the time of the older sibling's birth. She was aware Gloucestershire social services were working on a foster care placement for the first respondent and her baby. In relation to the first respondent's perception that the foster carer was "controlling", from her own observations she did not believe this to be the case. However, she accepted it was a difficult time for the first respondent. In particular, she had been in supported living. She had not been in a foster care placement before and so this was a new experience for her.

(4) In relation to the suggestion that the foster carer's home was not suitable, she explained that she had no concerns about the home or its upkeep. The only difficulty, so far as she was aware, was that the foster care placement was some distance from where the first respondent grew up but it was certainly suitable for the first respondent and her baby.

(5) In respect of the complaint that the first respondent was "unsupported", Talia Underwood explained that all of the statutory visits were made. There were calls and text messages and she felt that the first respondent was being supported. In addition to having Talia Underwood as her own social worker, she had her own advocate. The purpose of the advocate was to support a young person, such as the first respondent, to enable her to give her views and to ensure she was receiving the right services. Her advocate was available to her until the first respondent left the foster care placement.

(6) As regards the ending of the foster care placement, she did not agree with the first respondent's version of this. Rather, Gloucestershire social services continued to encourage the first respondent to return to the placement. If she had chosen to attend the placement she could have done so. It had remained open for seven days after the first respondent left it. She was not sure if the first respondent had had any contact with the older sibling in the seven days. If there were, it was perhaps once at a contact centre. It was not correct, as the first respondent appeared to assert, that she had been denied contact with the older sibling after the end of the placement. There was contact through a contact centre and the respondents were sent the contact schedule.

(7) Talia Underwood also confirmed that the respondent had been told that parenting assessments were being made. She explained that this was discussed throughout all the meetings at the hospital and at the planning meetings. The first respondent was present at some of these meetings and she was aware that a parenting assessment was to be undertaken.

(8) She explained there were issues, too, at times when the first respondent did not spend overnight at the hospital with the older sibling. If she did not do so, she was supposed to return to the supported living accommodation. However, this did not always happen. In terms of her visits with the older sibling at the hospital, the hospital expected her to be there during the majority of the day and to stay overnight. She was aware there were different views about this. She did not accept that the first respondent was in attendance at the hospital for the majority of a day. So far as she was aware, the first respondent had spent five nights in hospital in the days preceding the older sibling's discharge.

(9) In relation to the milk episode, she was not present and could not comment. She was not aware of any concern, since expressed by the first respondent, about the foster carer's inappropriate consumption of alcohol. This was not raised at the time. Nor had the first respondent stated any complaint at that time about the state or suitability of the foster carer's home. The first respondent did complain about the restrictions, as she saw them, placed upon her and the older sibling. However, the first respondent was herself still an accommodated child. These restrictions were necessary and were also to facilitate preparation of a parenting assessment so that her parenting skills in relation to the older sibling could be fully assessed. She categorically denied that she gave "no support" to the first respondent. She was available on the phone. She visited the foster care placement.

Cross-examination on behalf of the first respondent

[94] Talia Underwood was challenged on her observation in her affidavit that the first respondent's engagement with social work was "very poor". It was put to her that the first respondent's lack of engagement could be characterised as her being shy. Talia Underwood did not accept this. The first respondent would miss appointments both before and after she was pregnant, and it was not simply a matter of being shy during the appointments that she attended. She also explained that on occasions when she did not stay over at the supported accommodation, she would be reported missing and a look out kept for her. This ultimately resulted in the harbouring order. This related to a prior partner, who was, at age 35, considerably older than the first respondent. It was understood that she was going missing and staying with him. It was as a consequence of this prior relationship that there was

substance abuse by the first respondent and that this was part of the basis of the social work referral in relation to the older sibling. The prior partner had represented to the first respondent that he was younger, ie in his 20s. Talia Underwood was aware from other professionals of the abuse of illegal substances by the first respondent. It was for this reason that a harbouring order was put in place, which meant that the prior partner would be subject to arrest if he made any contact with the first respondent.

[95] It was put to her that the first respondent disputed having known the second respondent since she was 10. The first respondent's position was that she knew the second respondent's nieces when she was about 13 and had not met the first respondent until she was about 15. Talia Underwood reiterated that this was not the information given to Gloucestershire social services at the time.

[96] Talia Underwood was challenged about her evidence that the first respondent had initially asserted that the father of the older sibling was another person (also being accommodated by Gloucestershire social services). The first respondent denied saying this. Again, Talia Underwood reiterated that this was the information provided to her at the time.

[97] Turning to arrangements for the discharge of the older sibling to the care of the first respondent, Talia Underwood accepted that if things had not gone well between the first respondent and the older sibling in hospital, then it would not have been allowed to reside with the first respondent at the foster care placement. However, she stressed that it was a supported foster care placement. The first respondent was not allowed to go out on her own with the older sibling. There were other restrictions. She accepted that the first respondent might perceive this to be controlling and that this was her first experience of a foster care placement.

[98] Turning to the question of the frequency of the first respondent's visits with the older sibling while it was in hospital, Talia Underwood could only proceed on the basis of the information available to her. This was from hospital records or staff. She was challenged about the number of nights that the first respondent did not spend at hospital. But she could not add to what was stated in her affidavit. It could not be presumed that the first respondent had stayed overnight at the hospital, because she could also have been at the supported living accommodation.

[99] She was questioned about the circumstances in which the foster care placement came to an end. Most of the information came from information or team notes recorded on the Gloucestershire social services system. She did not have much direct knowledge of these events. She did confirm that the existing foster care placement was kept open for a further seven days. She confirmed, however, that the first respondent would not have been promised another foster care placement or a place in a mother and baby unit. The plan was for a foster care placement and the first respondent had met the foster carer before that placement began.

[100] In terms of her own contact with Fife Council, this was relatively limited. There had been some contact at the time of the referral and there was a joint visit with Kerry Parsons. She otherwise had no direct contact since that time.

[101] She was asked about the suitability of the foster carer's accommodation. She confirmed that the first respondent's bedroom was upstairs. She did not accept that it was not suitable to carry a baby upstairs; many people lived in houses with stairs. She accepted that the older sibling slept in a cot in the first respondent's bedroom and that the first respondent spent a considerable time alone with the older sibling. She also accepted that there were no reported concerns that the older sibling was in pain or physical discomfort,

nor was it reported as crying for long periods of time. She explained that there was a concern about the lack of eye contact between the first respondent and the older sibling. It was put to Talia Underwood that things had been progressing reasonably well until the foster care placement had ended. Talia Underwood resisted this interpretation. In her view, there were not enough observations to allay the concerns at the time. The placement had lasted only for a short period of time. There was insufficient time for concerns about the first respondent's parenting skills or ability to care for the older sibling to be dispelled. She was not aware of any drug concerns after the birth of the older sibling.

[102] In relation to the restrictions on the first respondent, at the start of the placement she was allowed four hours of free time a week during that time but her family and the second respondent were not allowed to visit. A four-week period with these sorts restrictions was the minimum. In any event, in mother and baby placements there tended not to be a lot of contact with other family members because these placements are so short. Had the foster care placement subsisted, then visits by family members would have been allowed over time. The placement here did not last long enough for that to happen.

[103] She accepted that after the birth of the older sibling there were no concerns of substance abuse by the first respondent. She also accepted that if a relationship had subsisted for three years that could be a positive for the upbringing of a child.

Cross-examination on behalf of the second respondent

[104] On the matter of the police records check instructed in relation to the second respondent, Talia Underwood accepted that these were only allegations. Indeed, she had supported the respondents in challenging these matters to ensure that allegations were recorded as such and not as convictions.

Re-examination

[105] In relation to the respondents' threat to take the older sibling away from the foster carer and the foster carer's alarm being such that she sought alternative accommodation, Talia Underwood confirmed she had no reason to doubt the veracity of this episode. In relation to supporting the respondents to challenge certain aspects of the police information held in relation to the second respondent, Talia Underwood explained that David Shaw had relied on something as if it were a conviction whereas it was only an allegation. She had helped the first respondent to challenge David Shaw on this matter and to get this reference removed from the child protection plan. In relation to the days on which the first respondent may or may not have spent the night at hospital, she confirmed that there were occasions where the first respondent spent nights that were neither at hospital nor at her supported accommodation. It was not her evidence that, apart from the dates when the first respondent was noted as not being at that accommodation, that she otherwise was at the hospital.

The petitioners' proof: the Fife witnesses

[106] The principal witnesses from the petitioners own social work department were Kerry Parsons and Debbie Adamson. Kerry Parsons was the first social worker allocated to the child, while still unborn, shortly after the respondents moved to Fife. She was the social worker from the petitioners who had principal contact with the respondents in relation to the child from early November 2016 until March 2017, when responsibility was transferred to Debbie Adamson. Wendy Johnstone was the community midwife allocated to the first

respondent. As will be seen, friction between the respondents and Kerry Parsons resulted in other social workers becoming involved.

Kerry Parsons

[107] Kerry Parsons first had contact with the respondents in early November 2016. However, within a fortnight or so the relations between Kerry Parsons and respondents broke down. Several consequences flow from this. First, a number of different social workers from the petitioners became involved. Secondly, the focus of much of the evidence was on the breakdown and who was responsible for this. Indeed, a significant theme in the evidence led before me related to the petitioners' procedures and the respondents' criticisms of them. At times, this gave the impression of an attack on (and defence of) the decision-making process whereas, of course, the principal issue for this court is the application of the statutory tests, correctly understood, and applied to the relevant evidence.

Affidavit

[108] At the outset of her evidence Kerry Parsons adopted her affidavit. Her oral evidence extended over the course of three days. As is apparent from the chronology, Kerry Parsons had the most contact with the respondents from October 2016 to March 2017. I do not repeat all of those interactions spoken to in her affidavit (they are detailed in the chronology in Appendix 1). I record some instances as representative of parties' positions or behaviour, or where more detail was provided.

[109] 2 November 2016: Kerry Parsons first met the respondents at the house of a relative of the second respondent. It was her understanding that the respondents had "fled" Gloucestershire without advising of their whereabouts. (The respondents dispute this.) In

her file note of this meeting, she recorded that the first respondent acknowledged she had not alerted Gloucestershire social services about her move to Fife. Kerry Parsons explained to the first respondent that she was still a looked after child in Gloucester, and that the child's name was on the child protection register in Gloucester. She advised the respondents of the seriousness of the first respondent moving and not advising Gloucester where she was living. In her view, the respondents did not appreciate this concern. They advised of their intention to remain in Fife. She observed that the second respondent took control and did the majority of the speaking for the first respondent. The second respondent agreed to keep in contact and contact details were exchanged. The second respondent blamed Gloucestershire social services for the respondents' lack of engagement with them.

[110] 4 November 2016: Kerry Parsons called the second respondent. He advised that the first respondent did not have a phone and that all contact should be through him and using his mobile telephone number. Kerry Parsons interpreted this as consistent with the second respondent's "controlling" behaviour, as described to her by Gloucestershire social services. On the same date, Kerry Parsons also visited the respondents at their temporary accommodation. She described going through all of the child protection notes from Gloucestershire social services but that the respondents did not acknowledge any of the concerns identified by Gloucestershire social services. She also described the second respondent as doing most of the speaking and continuing to blame Gloucestershire social services. She wrote a letter on 4 November 2016 to the respondents, but did not receive a reply.

[111] 8 November 2016: Kerry Parsons had a telephone call with Catherine Stewart. Catherine Stewart explained Gloucestershire social services' concerns. Catherine Stewart rejected the second respondent's statement to Kerry Parsons, to the effect that while he had

been subject to a Harbouring Order (to preclude his having contact with the first respondent) Gloucestershire social services had given permission for the first respondent to live with him and for him to look after her. She confirmed that there were significant concerns about the state of the respondents' property, and offered to provide photographs. She also explained the "very poor level of engagement" by the respondents. She confirmed the concerns surrounding the older sibling and she explained that the second respondent was able to paint a "positive picture" but that there was significant evidence detailing concerns about both respondents.

[112] 17 November 2016: Kerry Parsons had a meeting with the respondents at the new premises. She challenged the second respondent about the allegations of his drinking, which he and the first respondent both denied. The first respondent was described as being "non-committal". Kerry Parsons shared the child protection plan that had been agreed on the previous day. She also explained that, if concerns subsisted, a child protection order would be sought at birth. She explained that this mirrored Gloucestershire social services' assessment. The second respondent was recorded as denying all of the Gloucestershire social services information and stating that what Kerry Parsons had recorded in her report was wrong. In relation to how their property was left in Gloucester, the second respondent stated their window had been left open and someone must have gained entry to the property and made the mess shown in photographs. She described the second respondent coming back into the room and saying that he would "be doing" Kerry Parsons for slander. Kerry Parsons advised the respondents several times to take legal advice.

[113] 20 November 2016: The birth plan was again discussed as were the risks surrounding the first respondent's pregnancy. Kerry Parsons records the respondents' "lack of insight" into any concerns and the pregnancy generally. She regarded this as of concern

from a child protection point of view. In her view, the respondents had no understanding of how dangerous a home-birth could be for someone who had only had a preterm birth, such as the first respondent had had with the older sibling. While the first respondent required close monitoring, she was not attending her ante-natal appointments. This posed a risk to the child but the respondents failed to appreciate this. She reminded them that these risks might lead to a child protection order at birth and, again, advised the respondents to get legal advice.

[114] 9, 12 and 13 December 2016: On 9 December 2016 she provided bus tickets to the respondents to enable them to attend an ante-natal appointment but they did not attend. The respondents also missed the re-arranged medical appointment scheduled for 12 December 2016. She subsequently became aware, after a phone call, that the respondents were selling the bus tickets online. The core group meeting took place on 13 December 2016 but the respondents did not attend.

[115] 15 and 20 December 2016: After describing these meetings, Kerry Parsons described the respondents being amenable to a meeting if there were a financial gain for them by way of vouchers, food or tickets.

[116] Up to the point immediately before the birth of the child, the first respondent maintained her intention to have a home-birth. However, midwives had been refused entry to the property to assess it for that purpose. Accordingly, the core group determined to alert other agencies, such as the GP, NHS 24 and the ambulance service in the event the respondents contacted them. This was to ensure the safety of the child. On 22 February 2017 the second respondent called an ambulance and advised that the first respondent was having a home-birth. The ambulance service contacted Kerry Parsons, following the action plan, and it was by this means that the petitioners became aware that the first respondent

was in labour. However, the first respondent was then refusing to go to hospital. Kerry Parson then learned that the first respondent was in hospital and that the birth was imminent. She sought and obtained an interim child protection order.

[117] The child was born on 22 February 2017. Kerry Parsons attended at the hospital to serve the child protection order on the respondents. She described the second respondent as "very hostile". The first respondent required post-natal stitches and had been advised that she was not fit for discharge. However, Kerry Parsons described the second respondent pressuring the first respondent to leave the hospital. The first respondent discharged herself against medical advice.

[118] It was Kerry Parsons' position that the respondents were allowed to visit the child in the nursery if this were supervised. This never happened. (As will be seen, the respondents denied ever being advised that they could do so.) Kerry Parsons described the respondents leaving the hospital and not asking after the child and not asking for contact. She described this as unusual. She explained to the respondents at that time about the Children's Hearing that would take place in two days' time. She described the respondents as showing "no interest". She made them aware of the petitioners' recommendations. She described speaking to them about the Children's Hearing process but they "did not engage". The social work department were concerned about the first respondent because she had needed treatment but had left the hospital.

[119] The child was discharged from hospital that evening into foster care.

[120] 24 February 2017: The second working day hearing was held. Kerry Parsons attended. The respondents did not attend, although they had been notified of the hearing. Kerry Parsons stressed that she tried to ensure that the respondents knew about this, having

explained it to the respondents when serving the child protection order on them at the hospital.

[121] 27 February 2017: Kerry Parsons wrote to the respondents advising of a review child protection case conference to be held on 17 March. In the letter she stressed that it was important for the respondents to attend to put forward their views and to contribute. It was explained that if they would have any difficulties in attending they should contact her for help. The respondents did not respond to this letter and they did not attend that case conference. However, Kerry Parsons described exchanging a number of text messages with the first respondent on 27 February 2017. The gist of these exchanges was Kerry Parsons' attempt to provide paperwork to enable the respondents to register the child's birth but the respondents were not willing to grant access for this. Kerry Parsons was not willing to discuss these matters in the garden and some documentation was to be posted instead. When asked about her attendance at the planning meeting in the afternoon, the first respondent explained she would not be attending as she was in some pain.

[122] 27 February 2017: The 72 hour planning meeting also took place. Kerry Parsons described advising the respondents of this but they did not attend. As just noted, the first respondent explained that she was achy and said she would not be attending.

[123] 8 March 2017: The eighth working day hearing took place. The respondents did not attend. She was responsible for the case until the grounds for referral were established. Responsibility was thereafter transferred to Debbie Adamson of the petitioners' Permanence Team, who took the case forward from March 2017. The child was made subject to an interim CSO on the same conditions as the child protection order, including the condition that there be no parental contact. Kerry Parsons' direct involvement ceased at this point.

[124] In assessing her interactions with the respondents, she described them as refusing to engage with professionals "throughout the whole" child protection process. She described being concerned to manage the risks identified both prior to and after its birth. She described trying to assess the respondents' ability to parent throughout this time but that "any interaction" was "abusive and full of denial". She explained to the respondents that they needed to acknowledge issues if the social work department was going to work successfully with them. There were so many concerns about the parents and that the child's safety was paramount. She referred to the parenting assessment undertaken by Catherine Stewart of Gloucestershire social services. She regarded this as containing very recent information and therefore being "entirely relevant" to the work that the petitioners were carrying out. The concerns and lack of engagement Catherine Stewart had identified were repeated in the respondents' dealings with the petitioners. Even after the interim CSO, the respondents refused to engage. As a consequence, the petitioners were never able themselves to carry out any parenting assessments. The respondents did not attend any review or planning meetings, and they failed to attend the Children's Hearing that the second respondent had requested. Kerry Parsons described this behaviour as being unusual because, in her experience, normally parents who have had their children removed with no contact seek contact and updates continually. The respondents did not do this. She described this as the worst case of non-engagement she had been involved in. She explained that the respondents did not accept any of the concerns that the petitioners' social work department had and they did not work with any professionals or have any regard to the safety of the child. She described them as being dismissive of the concerns by social workers from Fife and Gloucestershire social services and that the respondents always blamed someone else.

Examination in chief of Kerry Parsons

[125] Kerry Parsons had a Bachelor's degree in social work and a Masters in child protection. She was a senior practitioner within the petitioners' social work department. In terms of the hierarchy within the petitioners' social work department, this position was senior to a social worker. It involved overseeing more complicated cases. Next in seniority to her was her team manager, Tom Bochenek. She explained the format and practice in the compilation of file notes recording all interactions of the petitioners' social workers.

[126] She explained that the respondents came to the attention of the petitioners' social work department when they received a missing person's alert. It was her understanding that Gloucestershire social services were not aware that the respondents would be moving; they were reported missing and the petitioners' social work department became involved. She had contacted the unborn child's social worker in Gloucestershire, Catherine Stewart, who shared the reasons why the child had been categorised as at risk and the basis of their concerns. She also spoke to the Transfer In Child Protection Case Conference ("TCPCC") that followed.

[127] She was referred to the file note of the telephone call of 16 November 2016 from a family member of the second respondent's reporting concern about the second respondent's use of alcohol. This was of concern to Kerry Parsons because some of the information from Gloucestershire social services concerned the misuse of alcohol as well as lack of engagement. Substance and alcohol abuse was one of the factors that led to the older sibling being placed on the child protection register in Gloucestershire.

[128] She spoke to photos taken by the police of the respondents' flat in Gloucester. These photos formed part of the information provided by the police to the petitioners. She had

seen these at an early stage. Some of the rooms in these photographs were extremely cluttered or full of debris and empty bottles. (I should record that photographs of the respondents' flat in Gloucester disclosed rooms in a greater or lesser degree of disorder. In one there is an upturned mattress and a large pile of empty plastic bottles; another photograph shows a bedroom with a large TV on a stand and other electrical items. What appears to be a living room had a large number of bags, and black bin bags, cluttering most of the floor area. The remainder of the floor was covered by debris. There appeared to be an extra washing machine standing in the middle of the floor area of the kitchen. The whole of the hallway (leading to the front door) was impassable by reason of the amount of debris and rubbish which, at some points, was several feet high.) She regarded these as consistent with Gloucestershire social services' concern about the ability of the respondents to maintain appropriate standards for bringing up a baby in a safe environment. She regarded these photos as also potentially raising safety issues in terms of access to doors, fire hazard, and that the property was not maintained to a clean or acceptable standard. In her view, some of the rooms were not habitable by reason of the rubbish.

[129] Kerry Parsons also explained in general terms about the child protection regime, the pattern of meetings and the system for identifying risks and appropriate actions. She confirmed that from an early stage in her contact with the respondents she advised them to seek legal advice. She did so after the TCPCC (on 18 November 2016) and repeated that advice on a number of occasions. Generally, parents were encouraged to attend meetings and to present their own views. In this case, she also bore in mind Gloucestershire social services' concerns about their parenting of the older sibling. The petitioners' social work department had to consider whether there was an immediate risk of significant harm to the child at birth.

[130] Kerry Parsons found the second respondent to be very hostile and verbally abusive during any engagement or child protection contact, particularly toward her. It was not possible to have such meetings without raising difficult issues about the parenting and backgrounds of prospective parents, such as the respondents, but generally one could engage with parents on a meaningful level without this degree of hostility. This did not appear to be possible with the second respondent. The relationship with the second respondent, in particular, deteriorated so quickly that matters were problematic by the end of November 2016. In relation to the first respondent, so far as Kerry Parsons observed, she remained very quiet during visits; she refused to attend meetings but would communicate by text messages. These were recorded and, in her view, were often hostile and abusive as well.

[131] A number of file notes from November 2016 were put to Kerry Parsons, who generally repeated their terms (which I have summarised above). Kerry Parsons explained that she would always share reports with parents, such as that prepared for the TCPCC. However, she explained that, by reason of the second respondent's presentation, it was difficult to engage with them. He refused to engage. He was aggressive. It was not possible to engage at any level with him by reason of the abusive nature of his exchanges.
Kerry Parsons described the second respondent refusing to speak to her and continuing to be abusive to social work staff. This was relevant because throughout her assessment she would be looking for engagement on the part of the parents. This was necessary to carry out meaningful work and because of the need to engage in discussions even if those involved difficult conversations. She was aware of the information from Gloucestershire social services that the second respondent was abusive towards staff and had a history of domestic violence, and this would pose a risk to staff. As matters developed, members of the

petitioners' social work department attended in pairs. This was unusual. Most social work visits were carried out by a single social worker, unless there was a particular history on the part of the parents of aggression or threats towards staff.

[132] In relation to the respondents' non-attendance at meetings or case conferences, it was her practice always to encourage parents to attend and to bring family members for support, if they wished. In this case, the respondents did not attend. Financial support was provided to the respondents, eg paying for taxis. Normally, these were pre-arranged meetings. On occasion, the first respondent simply texted that they should go ahead without her.

[133] She explained that Wendy Johnstone was the family health midwife and was there to provide support above and beyond the first respondent's ante-natal appointments. She also attended meetings concerning planning for the first respondent.

[134] Kerry Parsons spoke to the child protection referral notice, the information provided by Gloucestershire social services (which included the parenting assessments) and the information provided by the police. This material included concerns and ongoing investigations into an allegation against the second respondent. There was also evidence that the younger siblings of the first respondent had made sexual allegations, but which did not concern the second respondent and that was why these siblings of the first respondent were also looked after. Kerry Parsons also spoke to her report, dated 14 November 2016, for the TCPCC which took place on 18 November 2016 ("the November 2016 TCPCC Report"). This was a detailed report which narrated the sources of information from which it was prepared, the reasons for social work involvement and the assessment of the current needs and risks of the child under a variety of headings. It noted at the end a summary of risk and protective factors. There were three protective factors and some 14 areas of concern or risk set out. Among these were the second respondent's poor mental health and lack of engagement with

mental health services; the fact that the first respondent was still a looked after child but was refusing to live in her placement; the condition of the property in Gloucester; concerns about the first respondent's care of the older sibling, notwithstanding having been accommodated in a heavily supported placement; concerns about the association of the second respondent and his extended family in relation to sexual abuse; the absence of any contact by the second respondent with any of his five other children; the terms of the parenting assessments; the report of an allegation of domestic abuse by the second respondent against a former partner and his perceived character of being controlling of the first respondent; concerns about the respondents' ability to provide basic care to a baby and the report of the second respondent having recently kicked a puppy to death and being prohibited from keeping animals. After recording the respondents' views, which essentially did not agree with the concerns expressed in relation to them, the report made the recommendation that the child be placed on the child protection register and also recommended an alternative placement be sought for the child from birth. Kerry Parsons confirmed in her oral evidence that the respondents "absolutely did not" accept that any concerns had any validity. This, itself, she regarded as of concern because there was unlikely to be engagement due to their behaviour. She shared this report with the respondents.

[135] Kerry Parsons spoke to the file note of the meeting she had with respondents on 22 November 2016 (see para [13] of Appendix 1). Kerry Parsons was asked if the second respondent's mental health condition was used against him. She did not believe that this was the case. She explained that many parents had mental health issues and sought support through the appropriate channels. The difficulty in this case was that the second respondent was not seeking support from mental health services or from his GP. This was consistent with the information from Gloucestershire social services which recorded a failure to seek

help in respect of this matter. This was one of the factors that was regarded as detrimental to the welfare of the older sibling.

[136] In relation to the first respondent's ambition for a home-birth, Kerry Parsons explained the petitioners' role in this. The first respondent was classified as at high-risk, given the serious health risks occasioned by the premature birth of the older sibling. The first respondent had the benefit of consultant-led care. Notwithstanding this, the first respondent's insistence on a home-birth disclosed a lack of any understanding as to the risks that posed. In her view, they failed to understand the risks. Further, while it would be necessary to assess the suitability of their flat and to make arrangements for a community midwife to visit, the respondents refused to cooperate in any way with these arrangements. The hospital could not allow a home-birth unless it had been confirmed to be safe and the home appropriate.

[137] Kerry Parsons also confirmed that the petitioners did not simply accept Gloucestershire social services' position and act on it. The purpose of the TCPCC was to get information from the previous local authority, but thereafter to rely on the petitioners' own interactions with the family and to assess their engagement. The risks would continue to be identified and these can change up to the moment of birth.

[138] The respondents did not attend any of the core group meetings or child protection conferences. In her view, this reflected their lack of engagement generally. The significance of this was that these were the opportunities to have important discussions about the plans for the unborn child, to enable the respondents to present their views and their reasons why they disagreed with the petitioners' views or the risks the social workers had identified. In her assessment of positive and risk factors, there were fewer positive factors. This was because the respondents ceased to engage with the petitioners' social work department and

their refusal to allow access to the property on a weekly basis. By this time, too, the first respondent had missed at least two ante-natal appointments. This was a further cause for concern. Kerry Parsons also had information to the effect that the second respondent had not been taking medication for his mental health problems. She inferred this from the fact that the second respondent had not approached or obtained any medication from his GP. In her view, this became an additional risk factor. She had been aware that the second respondent had previously been prescribed medication but had misused it. There was also information from family members that the second respondent was misusing his medication.

[139] She spoke to a number of entries relating to contact with one or other of the respondents in November and December 2016 and in January 2017. These included the file notes of 5, 6, 7, 9, 12, 15, 20 and 28 December 2016 and on 9, 10, 11, 13, 17, 18, 24 and 25 January 2017. These entries were dealt with in her affidavit and are set out in part A of Appendix 1. It is not necessary to repeat this evidence.

[140] Thereafter a number of passages from the first respondent's affidavit was put to Kerry Parsons for her comment.

1) In relation to a statement that the first respondent wished to care for the child, Kerry Parsons accepted that the first respondent stated that she wanted a chance to parent her baby but that, after the TCPCC (in November 2016) the first respondent did not engage with her in any manner. She explained the consequences of non-engagement, namely that, given the information available to the social work department, the risks assessed by Gloucestershire social services and the complete lack of engagement by the first respondent to show that any of the risks were being addressed, it would not have been safe for the first respondent to parent the child. She went on to explain that social workers

were aware that when families disengaged this increased the risk. These risks included the inability of professionals to visit or get the views of the child concerned, their inability to check the most basic safety matters, but also because parents who disengaged were unlikely to accept any advice from social work or health to address identified risks.

2) In relation to the first respondent's assertion that she had not had any contact with the child since birth, Kerry Parsons stated that the first respondent did not take any steps to ask for contact. Neither of the respondents attended or had legal representation at the Children's Hearings or at the second day and eighth working day hearings following the birth of the child. Insofar as she had direct knowledge of Children's Hearings and other meetings, the respondents had never attended or asked for contact. If they had attended, for example at the children's panel, any request for contact would "definitely" have been considered. She went on to explain that it was often the case that a child protection order sought at birth would be relevant for only two days and that these orders were frequently changed. One of the conditions always discussed was the amount of contact. Furthermore, the respondents never made an application to vary or recall the child protection order made at birth.

3) Kerry Parsons was next referred to a passage in the first respondent's affidavit referring to the curator's report and her perception that he was the only one to listen to the respondents. She was asked whether it would suffice for a social worker simply to listen to the parents. Kerry Parsons explained the process of writing a report and how she would always incorporate the parents' view. However she also explained the need, on occasion, to challenge the views of the

parents on certain matters. This was necessary in order to express any concerns on the part of social workers. The only response they had from the respondents was hostility. At no point did they accept any of the concerns that social work or other agencies had expressed.

4) The first respondent criticised the petitioners' social workers for accepting "at face value" the information provided to them by Gloucestershire social services and she asserted a failure to consider the material in a fair and objective manner. She repeated her complaint that the petitioner did not give her a chance to look after the child before it was taken away. This was bound up with a criticism that the petitioners' social work department was said to be unaware of the circumstances that led to the premature birth of the older sibling and the first respondent's complaint against Gloucestershire social services and one of its social workers, David Shaw. Kerry Parsons rejected the suggestion that she was unaware of what led to the older sibling being born prematurely. She confirmed that she was aware of complaints made against her by the second respondent. She also confirmed that it would not be possible at the core group meeting to avoid raising the parent's own background, where that parent had herself been accommodated as a looked after child by a local authority. She had not accepted the Gloucestershire social services information at face value but had interrogated it. She had had discussions with her counterparts in Gloucestershire social services and had met some of those involved in Scotland. The concerns identified by Gloucestershire social services were very relevant but these were confirmed by the petitioners' own dealings with respondents. They completely

disengaged with social work and health, as they had done in Gloucestershire. Her views were based on her own dealings with the respondents.

5) In relation to the first respondent's statement that she had not concealed from Gloucestershire social services that she was expecting the child, Kerry Parsons explained that the information she had from Gloucestershire social services was not consistent with this. She was aware the second respondent had been in touch with housing in the local authority, but had refused contact with social workers. She accepted that the respondents did not conceal the first respondent's pregnancy once they reached Fife.

6) On the issue of a home-birth, the first respondent asserted that she had had "no assistance" for a home-birth; that if assistance had been offered she would have accepted it; and that the petitioners' social work department simply set out reasons why they were against it. Kerry Parsons explained that she had tried to encourage the respondents to work with the midwife to enable an assessment of the suitability of their flat for a home-birth. However, the respondents refused entry on both of those arranged home visits. The respondents told health workers that they would not engage in the process. The respondents were very clear that they would not grant access for the purpose of the home assessment, even though these visits had been discussed and arranged. Accordingly, social work and health professionals could not support a home-birth, given the absence of an assessment of risk or of the flat.

7) The first respondent also stated in her affidavit that she had not been told about any multi-agency plan for her to be taken to hospital to give birth. The police had stopped the ambulance when she was in labour on the way to the hospital to

confirm that she was in it. Kerry Parsons was not aware of this incident. She had had discussion with the ambulance service who had contacted her to say that the first respondent was refusing to go to the hospital and was wanting to give birth at home. This had led Kerry Parsons to contact the police, as part of the multi-agency plan. The multi-agency plan would have been available to the respondents if they had attended meetings. That plan was for the police to be called if the respondent attempted a home-birth without a midwife being present.

8) The first respondent also stated that she had only had contact with the child for about five minutes before it was removed from her. Kerry Parsons did not accept this. What had been agreed as part of the child protection plan was for the child to be placed in the hospital nursery, where the respondents could have access to it because others would be in attendance. She explained the steps taken to obtain the interim child protection order from the sheriff and thereafter serving that on the respondents in the hospital in the company of the midwife, Wendy Johnstone. She stated that the respondents refused to engage with her at all as she tried to explain the conditions of no contact which had been agreed. She also tried to explain that there would be a second day hearing (meaning the second day after the birth of the child) but the second respondent verbally abused her and stated that they would not be attending. She confirmed that the interim child protection order sought had included a condition of no contact. However, she explained that often parents want contact when a child was born. This condition could have been discussed at the second day hearing. If it had been

discussed, in other words had the respondents attended, then in her view a different decision about the "no contact" condition could have been possible.

9) In relation to the first respondent's complaint that she could not attend the second working day hearing and wished it postponed, Kerry Parsons explained it was a mandatory hearing fixed by statute and could not be changed. It was an opportunity for parents to attend and put forward their own view. In relation to the first respondent's assertion that she had had no opportunity to consult a solicitor nor had been offered the services of a duty solicitor, Kerry Parsons confirmed that throughout the whole process from November 2016 onwards, the respondents had repeatedly been told to get legal advice and that the second respondent had stated that he had done so. In her view, there was nothing more she could reasonably have done to facilitate the respondents instructing or having access to solicitors. While the first respondent spoke to the child having been removed from her arms, Kerry Parsons' understanding was that the respondents were allowed to attend the nursery if they wanted to, but hospital personnel advised her that the respondents did not request this.

10) Kerry Parsons was asked if it was "disproportionate" to obtain an interim child protection order when she did. She explained that the information from the hospital was that the child was well and would be discharged six hours after birth and it was the practice for an interim child protection order to be obtained before the baby left the hospital.

11) In relation to the first respondent's statement that she had been afforded so little time with the child, Kerry Parsons' view was that if the respondents had not themselves left the hospital so quickly they would have been able to spend more

time. She accepted, however, that once the child protection order was served with a condition for no contact, the respondents would not have been allowed contact with the child at that time.

12) There was an extensive passage in the first respondent's affidavit about the removal of the child and the actions of Gloucestershire social services and the petitioners to prevent the first respondent having any contact with her children; that promises had not been kept and that nothing had been done to facilitate contact with the child. Kerry Parsons did not accept these criticisms. There had been an initial recommendation to assess the respondents' mental health and the risks identified prior to the birth of the child. The respondents' presentation to social workers and health staff had been mostly verbally abusive, and was felt it was not appropriate for the child to be exposed to this. Further, the second respondent's refusal to engage in any conversation that was not abusive was felt to be detrimental to the child. The consequences of the respondents' non-engagement was that the petitioners' social workers were unable to assess any of the issues previously identified, for example the stability of the second respondent's mental health. In the absence of any meaningful contact, the petitioners' social work department was unable to say whether the risks identified had increased or decreased. Further, it was not a question of the petitioners "preventing" the first respondent from seeing the child; the main consideration of the multi-agency planning had been the immediate and long-term safety of the child. There were no promises on the part of the petitioners' social workers that were not kept. It was not a question of the petitioners' failing to "facilitate contact". The reality was that by reason of the

respondents' lack of engagement, there was no opportunity to discuss conditions of contact. The respondents needed to attend child protection meetings and Children's Hearings to provide their own view. She also explained that in order to facilitate rehabilitation of the child to the respondents for any level of contact, work had to have been done with the respondents to address the risks identified by the multi-agency review. However, the respondents refused completely to engage with any agency. As a result, there was no opportunity for the first respondent to look after the child.

13) In relation to the first respondent's observation that she was depressed at this time, Kerry Parsons confirmed that most of the information she had about this had come from Gloucestershire social services, and was to the effect that the first respondent suffered from low mood and depression and had tried to commit suicide. There was no evidence to suggest that the first respondent had attended her general practitioner in Fife in relation to her mental health. She also confirmed that from her own interactions with the first respondent, the first respondent presented as quiet and the second respondent did most of the speaking.

[141] A number of passages from the affidavit of the second respondent were also put to Kerry Parsons for her comment. These included the following:

1) In his affidavit the second respondent set out in detail his mental health difficulties and his view that this was used against him. The information about this from Gloucestershire social services had been put to the second respondent and he had admitted having a personality disorder. She understood he was prescribed medication but, on the information available to her at the time, the

second respondent was not engaging with any mental health services while in Fife. Indeed, in December 2016, they had received information from the police that the second respondent had presented as suicidal; he had been transferred to the hospital for a psychiatric assessment but had left before that could be undertaken. In her view, the second respondent did not engage with mental health services in relation to his problems. She confirmed that this was information which was relevant to an assessment of the capacity of the parents to parent a child and could not be ignored. She rejected the contention that the second respondent's mental health was used against him. It was part of the information relevant to the whole assessment process concerning the child.

2) The second respondent explained that they had travelled to Fife on 18 October 2016 to see his mother who was terminally ill. While it was his intention then to return to Gloucester, he subsequently decided to remain in Fife with the first respondent. Kerry Parsons accepted that, on the information available from Gloucester, the respondents had given notice to Gloucester that they did not require their housing there any further.

3) Kerry Parsons specifically denied stating, as the second respondent asserted, that she would like to keep the respondents and the child, as yet unborn, together.

4) In relation to the second respondent's assertion that he was not aware of the petitioners' decision about the first respondent's desire for a home-birth, Kerry Parsons confirmed that the respondents would have been aware of their decision and that she had tried to discuss these matters with, among others, the second respondent.

5) Kerry Parsons rejected the second respondent's contention that she put words into the mouth of the first respondent. There was reference to an intention on the part of the first respondent to move to Ireland. Kerry Parsons confirmed that they had been given information that the first respondent was discussing such a move but that was the extent of it.

6) In relation to the allegation of sexual abuse of a young relative made against the second respondent, and with which he took issue, Kerry Parsons explained that this was information from Gloucestershire social services and which she felt she had to put to the second respondent. She confirmed that it was correct, as stated in the second respondent's affidavit, that the relationship between her and the respondents had broken down and that she had indeed been "banned" from their property. However, she rejected the suggestion that she was high-handed and arrogant or that she failed to listen to the respondents. She was professional in all her dealings. In her view, there was relatively little interaction or opportunity to converse because of the second respondent's abuse, or hostility toward her. She repeated that she found the second respondent to be aggressive and frequently shouting and swearing and making allegations of breaches of legislation and so on. She spoke to occasions when the second respondent would refuse to let her, or other social workers accompanying her, through the front door to check on the first respondent and that he was verbally aggressive. He would record their interactions on his mobile phone and she found this very intimidating. It was already the case that social workers had to attend the respondents' flat in pairs because of the level of aggression. She went so far as to assert that this level of aggression existed during every single contact with the

couple. From her observations of the first respondent, she refused to come to the front door the majority of the time and a few times she shouted for the social workers to go away. At times the first respondent came to the front door and participated in the hostile verbal exchanges that Kerry Parsons described. She did not believe there to be much difference in the presentation as between the two respondents. While the first respondent did not film the social workers on her camera, as the second respondent did, Kerry Parsons described her as also being verbally abusive to her and other social work staff.

7) In respect of the second respondent's assertion that contact was refused because of his mental health, Kerry Parsons denied ever saying this or that this was true. The respondents' mental health concerns remained relevant and were included as part of the consideration in determining that there should be a "no contact" condition when the child protection order was obtained. In response to a passage in the second respondent's affidavit, that he felt he "could not win", Kerry Parsons explained that it was the second respondent's manner of presentation which was taken into account rather than the fact that his view was different from that of the social workers.

8) In relation to the incident described by the respondents of the police stopping the ambulance en route to the hospital, she denied ever stating to the first respondent that the police would come and "force her out of the house and into the ambulance". This was not language she would use. There had been reference to a possible role for the police and this was because of the first respondent's stated refusal to go to the hospital and her insistence on a home-birth. She was not aware of the police approaching the ambulance on the day.

9) The second respondent described Kerry Parsons and the health visitor, Wendy Johnstone, being "in the face" of the first respondent and of invading his personal space at the time that they came to serve the interim child protection order after the birth of the child. Kerry Parsons denied such behaviour. Her intention had been to check on the welfare of the first respondent and to serve the interim order.

10) Kerry Parsons also rejected the second respondent's allegation that there was "no support" offered to them by the petitioners' social work department after the birth of the child and its removal. In her view, the respondents were not prepared to accept any support when this was arranged. She provided examples of proposed visits by health visitors to assess the possibility of a home-birth and the respondents' refusal "to engage at any level" with any professionals. She was aware that the second respondent had complained about her and had had a meeting with Mr Bochenek. Other social workers thereafter attended but the second respondent continued to refuse them access.

[142] The terms of Simon Petrie's clinical psychology report were put to Kerry Parsons. She explained that she and the multi-agency team were all aware of the first respondent's history of low mood. It had been regarded as a risk factor that the first respondent accessed no mental health or medical services while in Fife prior to the birth of the child. She had no involvement with the first respondent after the birth of the child. Her involvement ceased after the eighth working day hearing in February 2017. In any event, she confirmed that in practical terms, this would not have changed how the petitioners' social workers had dealt with the first respondent. The first respondent's mental health had been considered as part of the whole assessment process prior to the birth of the child. She reiterated that the Fife

social workers were aware of the first respondent's prior mental health issues and also that, from information from Gloucestershire social services, she had not engaged with mental health services in England. In her view, if the first respondent had post-natal depression, this would have posed an increased risk. The risk would be of the first respondent not functioning and not engaging with or accepting appropriate support. A mother had to be able to deal with the day-to-day needs of a small baby.

Cross-examination of Kerry Parsons on behalf of the first respondent

[143] Kerry Parsons was challenged on her evidence that Dr Petrie's report did not alter her view. She accepted that the non-engagement of the first respondent was a possible reaction to post-natal depression. She did not accept the proposition that it was not appropriate to take into account the first respondent's non-engagement while suffering from post-natal depression. Many mothers who have post-natal depression do engage with social workers. Furthermore, there was non-engagement on the part of both parents and their assessment was of them as a couple and on the whole material. In Kerry Parsons's view, the risk from non-engagement was the same, regardless of the reason why it occurred. She was aware of the first respondent's mental health issues and was aware of her non-engagement in Gloucestershire. She stressed that if the first respondent had engaged at any level, there would have been support but the first respondent did not make this possible. She did accept that post-natal depression might affect someone's level of engagement. She maintained that this was a risk factor but was not the only risk factor taken into account at the time.

[144] She was questioned about the first few meetings in early November between her and the respondents. She accepted that the initial meeting on 2 November 2016 went well and that there was "engagement", meaning discussion and response, on the part of the

respondents. It was put to her that, notwithstanding this, as early as 3 November 2016 she had determined to place the child on the child protection register and that this was disproportionate. Kerry Parsons rejected this. The child was on the child protection register in Gloucestershire and the respondents had run away. It was the petitioners' practice to place the unborn child temporarily on the child protection register in case of a transfer of responsibility to it. Kerry Parsons was challenged on her assessment that the respondents had "run away" from Gloucester. Her response was that they had not informed Gloucestershire social services of their move north whereas it was one of the conditions that Gloucestershire social services needed to know of any change of residence of the first respondent. She maintained, therefore, that description of the first respondent "running away" was appropriate.

[145] Kerry Parsons was challenged on the basis that she had relied heavily on what Gloucestershire social services had determined, and that there had been no independent exercise of judgement. Kerry Parsons explained that, initially, there was a temporary transfer to the child protection register. She did speak to members of Gloucestershire social services and the child was registered under the correct categories.

[146] Kerry Parsons' observation that there had only been engagement on the part of the respondents between second and 17 November 2016 was challenged. She modified this slightly, to refer to "meaningful" engagement. She stood by this assessment. She ultimately accepted that there were some other dates when the respondents let other persons into their flat. Thereafter followed a detailed cross examination under reference to different entries in the social work records with a view to demonstrating other instances of engagement. These included:

1) Child protection visit on 20 November 2016. Kerry Parsons had conducted an announced child protection visit. This meeting took place at the request of the respondents, because they wished bus tickets to be provided to them in order for the first respondent to attend a medical appointment. In Kerry Parsons' view, the respondents only engaged because they wanted bus tickets but, when pressed, she accepted there had been some meaningful engagement on the part of the respondents at this meeting.
2) Child protection visit on 15 December 2016. It was put to Kerry Parsons that the file note relating to this visit also disclosed meaningful engagement. Kerry Parsons countered that there had been text exchanges in advance and that she had been allowed to attend only because Talia Underwood would not visit unless Kerry Parsons was also present. (This was the meeting at which Talia Underwood provided or confirmed financial support from Gloucestershire social services to the respondents.)
3) Child protection visit on 20 December 2016. It was put to Kerry Parsons that this file note also disclosed meaningful engagement. Again, her response was to note that the respondents had wanted something, on this occasion food and a food bank voucher, but otherwise the respondents generally denied access.
4) Child protection visit on 1 February 2017 with Mr Bochenek. It was suggested that this file note disclosed engagement but Kerry Parsons could only observe that she was not present.

[147] Turning to the November 2016 TCPCC report Kerry Parsons prepared, this recommended that the child's temporary entry on the child protection register be changed to a permanent one, and that there should be an alternative placement for the child from birth.

She was challenged about the speed with which she reached these recommendations, given that she had only first met the respondents two weeks earlier and that there had been meaningful engagement on their part in those weeks. This was disproportionate. She accepted that this recommendation was based in part on information from, and the position adopted by, Gloucestershire social services. She confirmed that she had verified the information Gloucestershire social services had provided. She was asked whether she had gone through this information with the respondents. Kerry Parsons believed she had put these concerns to the respondents. Kerry Parsons had spoken to Gloucestershire social services and she had received the police photos and police information by this time. She was challenged again, to the effect that her decision and recommendations were overhasty. She countered that Gloucestershire social services had themselves had a multi-agency case conference on 28 August 2016 which came to the same conclusion. Kerry Parsons explained that the starting point was the information from Gloucestershire social services. If that changed then the recommendation would be revisited but she stood by the recommendation she had made two weeks after first meeting the respondents.

[148] She was also challenged that her recommendation would have the effect of the child being removed from the respondents from birth. She accepted that but explained there would also be parallel planning in the event the risk changed, ie if those risks lessened. Otherwise at the time the child protection order was sought, the question was whether the child was in immediate danger. She denied that this was draconian. To remove a child at birth was a difficult decision, but was one made after an assessment of the risks posed at the time of birth. If particular risks were known, it was not open to the petitioners' social work department to wait and see to assess those. She was challenged that "assessment" meant looking at matters from both sides, however she explained that if the respondents had

attended meetings they could have put forward their views. They didn't attend and didn't put forward their views.

[149] Kerry Parsons was also challenged that the material she proceeded on at the time were "concerns" and not established fact. She stressed the information provided came from Gloucestershire social services and from the police. It is fair to say that Kerry Parsons appeared to treat the police information as established fact (it's "factual") and did not always distinguish those parts in which they were allegations but which had not been admitted or established by any legal process. For example, she maintained her position that the question of domestic abuse was an established fact because it came from the police records. She fell back on the position that, at least, these were all concerns from that source.

[150] Kerry Parsons explained that she would have given a copy of the November 2016 TCPCC report, which included the recommendations described above, to the respondents in advance of the proposed meeting at which it would be discussed. She accepted that it was common for parents to react adversely to the kind of recommendations recorded. She accepted that, on being told that there was a recommendation to remove the child, this would have an adverse effect on the first respondent, especially given that she suffered from depression and low moods. She accepted that the first respondent did not take this news well. She denied holding this reaction against the first respondent. She explained that the proposed plan would be reviewed at the core group meetings, which were held monthly. She accepted that after 17 November 2016 the attitude of the first respondent towards her had changed. She also accepted that this was probably as a consequence of the recommendation and the plan to remove the child from the respondents. Kerry Parsons explained that she had experience of other parents facing a similar recommendation and

whose child was on the child protection register, but where the parents could still engage with social workers even after receiving such difficult news.

[151] The minute of the TCPCC of 18 November 2016 was put to Kerry Parsons. She accepted that, up to this point, the meetings she had had with the respondents had gone fairly well. She also accepted that there was no mention of positive factors in that minute. She stressed that the respondents did not accept any of the concerns raised by Gloucestershire social services and that this had to be put into the notes. She was cross-examined on certain details of this, the thrust of which was that she had downplayed any positive feature. Kerry Parsons explained she could only proceed on the information she had and could only report what she had observed. She had nothing positive to report. She rejected the suggestion that the assessment was one-sided or that she had taken a view from a very early stage that the child should be removed from the respondents. She did not accept that she was over influenced by the information received from Gloucestershire social services. Nor did she accept that, in reaching her conclusion, she had not taken into account any positive points in respect of the respondents.

[152] Turning to the question of the first respondent's preference for a home-birth, Kerry Parsons was cross-examined on the file note entries detailing meetings at which this was raised or discussions attempted. She was challenged on her observation that the first respondent lacked "any insight" to the risks posed by a home-birth. Kerry Parsons rejected this. This remained her assessment of the first respondent. She was next asked about her perception of "being banned" from the respondents' property. It was put to her that this was her understanding. The second respondent had been abusive and had not allowed Kerry Parsons into the property from about December 2016 onwards. She had discussed with her line manager the fact that the second respondent was not letting her have access to

the first respondent, but she knew the case and had been involved since the respondents' arrival in Fife. Kerry Parsons explained that other social workers were thereafter refused access and so it was agreed that reallocation from her would not be in the best interests of the child. It was put to her that she would not know what would have happened if she had stood down, but Kerry Parsons responded that other social workers had also had difficulties gaining access.

[153] Passages from the agreed child action plan were put to her. From this it was noted that the plan was to have the child placed in the nursery and to permit supervised contact by the respondents there. Notwithstanding this, by the time of the interim child protection order there was a condition of no contact. Kerry Parsons was pressed that this was not necessary or justified in the circumstances, but she disagreed. She accepted that supervised contact might have been possible. She referred to, and relied on, the reasons set out in the application for the interim order sought at birth. She was challenged as to whether or not it was helpful to the first respondent for her to have no contact from birth, but Kerry Parsons explained that her main concern was detriment to the child and she thought there was significant and imminent harm. She regarded matters as so serious that not even supervised contact should be attempted. She explained that the second respondent had been abusive towards the end. There had been no engagement. This was detrimental to the child. She also referenced previous threats to kidnap the child and that it was not possible for social workers to take any chances. The first respondent had been abusive, as recorded in text messages and file note entries of some meetings. She also relied on the fact that the Children's Panel had also concluded that contact would not be in the best interests of the child.

[154] She was also asked about the first respondent's assertion that the child had been removed after only five minutes. Kerry Parsons could not comment as she was not present at the birth. She referred to the plan and the proposal that the child be moved to the nursery, but she agreed that if the child had been removed after only five minutes this would be drastic. She also felt that the first respondent had a full 2.5 hours with the child in the period before she arrived at the hospital with Wendy Johnstone to serve the interim protection order. She was fairly sure that medical staff would have told the first respondent that she could visit the child in the nursery. This was because this was recorded on the plan. She accepted that the removal of the child, such as the first respondent described, would have had an adverse impact on her. It was also put to her that she held it against the first respondent that she did not ask to see the child. Kerry Parsons confirmed that this would be taken into consideration. It was a negative factor if a mother didn't ask to see her baby. This was so even in the case of a vulnerable mother, as others had done so.

Cross-examination of Kerry Parsons on behalf of the second respondent

[155] Cross-examination on behalf of the second respondent began with a series of propositions being put to Kerry Parsons. She accepted that child protection notes required to be completed within 24 hours and that the profile notes should record every interaction. She accepted that social workers had a duty to intervene where necessary, but they required to consider what supports were capable of being offered and to put these in place with the aim of keeping families together. She accepted that any state intervention had to be kept to the lowest possible level and that the greater the state intervention, the greater the need for proportionality. She accepted it was in a child's best interest to have contact with its parents, subject to the proviso that there was no risk that could not be managed. It was put

to her that even in circumstances where a child required to be made safe by removal, contact should be considered. She accepted this, if contact was appropriate and safe. It was suggested that when a local authority was considering supervision or similar matters, it could have parents sign a contract governing these matters. Kerry Parsons confirmed that the petitioners used such agreements but that in this case the second respondent was not open to any discussion or engagement that would have enabled that kind of arrangement. She was challenged that this view was based on her contacts with the respondents which all pre-dated the birth of the child, but Kerry Parsons noted that after the child's birth the respondents did not attend any of the Children's Hearings. She was challenged for having no contact with the second respondent after the birth of the child and for failing to discuss with him the possibility of a contact contract. Kerry Parsons repeated her evidence that the second respondent was abusive when he left the hospital and made it clear he wanted no further contact.

[156] The circumstances in which the respondents left Gloucestershire and came to Fife were explored. Kerry Parsons was not aware that the second respondent's mother was terminally ill in October 2016 and had died at the end of that month. Kerry Parsons did not accept the proposition that, at that point, the child was not yet on the child protection register, because the information from the police was that it was.

[157] While Kerry Parsons accepted that there was meaningful engagement on the part of the respondents in the early part of November 2016, she was challenged on the basis that her analysis from the outset was not positive about the respondents. She resisted this, contending that she wrote down what she observed. In relation to her putting the allegation of sexual assault to the second respondent, she accepted that he was entitled to deny this. She accepted that in the November 2016 TCPCC report she prepared at that time she did not

record the second respondent's denial of this allegation. She denied she was being selective. She was challenged on certain observations in that report. The first risk factor she had recorded (in the first bullet points at page 8) was about the second respondent's poor mental health, diagnosis of personality disorder and information that he did not engage in mental health services. She was challenged as to the source about this last statement. Kerry Parsons explained this came from Catherine Stewart's report but that she had also spoken to her. An observation in Catherine Stewart's parenting assessment, to the effect that the second respondent was getting support for his mental health issues, and which was inconsistent with this risk factor, was put to her. Kerry Parsons explained that Catherine Stewart's report dated from June 2016 whereas her assessment was in November 2016. On the information available to her, the second respondent no longer resided in Gloucestershire. In Fife, he had not registered with the GP and therefore could not possibly be accessing mental health support. This information came from the health professionals. She denied that her only investigation had been a single call to his GP. She explained she had also made enquiries with the community psychiatric nurse ("the CPN") who had access to other health records in relation to the second respondent. The GP was part of the multi-agency plan. The reason why he had not produced a report was because he had not met the second respondent. She was also challenged about the omission of the GP's name in the minute of the TCPCC, but she explained that the GP would not have been involved at that stage.

[158] She was next challenged about the inclusion as another risk factor of the allegation of sexual assault by the second respondent on a young relative, given that the second respondent had previously denied this to her. Her answer was that one could not exclude a risk factor just because it was denied. She accepted that when she shared her report and its

recommendations with the respondents, on about 17 November 2016, that that marked the end of meaningful engagement on the part of the respondents. She was challenged that she took this view because they were not prepared to accept her concerns, to which she countered they were also not prepared to have any discussions. She was pressed about including the allegation of sexual assault but she maintained that she took into account all of the risk factors identified in her report. She was again challenged that she had omitted to record the second respondent's denial against this allegation. In the light of that denial, how could she maintain that the respondents did not accept "any concerns", as she had stated? Kerry Parsons maintained that there were 14 risk factors and the second respondent did not accept any of them.

[159] A number of questions were put to Kerry Parsons about the police information, some of which had been included in the November 2016 TCPCC report. Under the heading of "convictions/pending cases", Kerry Parsons had recorded the following in respect of the second respondent:

> "[The second respondent] has a conviction for possession of an offensive weapon namely a baseball bat and driving whilst under the influence of alcohol in Scotland. He has a reprimand/warning for destroying or damaging property at a school in Cumbria in 2003. In England he has also been reported but was not convicted of punching a female in the face, pushing her to the ground and punching her to the stomach in 2011. The female was 21 weeks pregnant at the time of this incident. He was also reported but not convicted of entering property with intent to cause damage in 2012. He has previously had special bail conditions not to contact directly or indirectly a previous partner."

Under the heading "any other information" Kerry Parsons had also included the following passages, which had been obtained from police in Gloucester:

> "09/11/11 – Female contacted the Police reporting her partner [the second respondent] had 'battered' her. Police attended and she told the officer she had been punched to the stomach and face, he had held her down and put his hands round her throat. He also threatened to throw her down the stairs. She was 21 weeks pregnant with his child. He was arrested in relation to assault occasioning bodily harm and the female

> was fearful of when he was released. She later contacted Police requesting the charges be dropped.
>
> 09/12/11 - … a train ticket was funded for the previous partner of [the second respondent] for her to to (sic) return to Scotland following a domestic incident. She had been assaulted by her ex-partner [the second respondent] and he had been bailed. Due to the concerns it was decided to hold a strategy meeting. On 30/01/12 her children were placed on the Child Protection Register in England."

Kerry Parsons accepted that the incident described in relation to a former partner had resulted in an arrest but that the charges were later dropped. She also accepted that the separate entries (just quoted above) concerned a single incident but where several things happened. She also accepted that this related to a single former partner, and that her use of "partners" in the plural in her compilation of the risk factors was incorrect. She was also challenged about her inclusion, at a later point in the report, of an allegation dating from August 2016 to the effect that the second respondent "was physically harming a pet dog. It is believed that he was banned from having dogs by the RSPCA." It was put to her that this was only an allegation, to which she replied that she relied on the fact that the police "believed" this allegation. She was also challenged on her conclusion that the evidence about the respondents' parenting capacity was "so over whelming (sic)" that, in contrast to the position in England in respect of the older sibling, a foster care placement for the first respondent and the child was dismissed as an option. Kerry Parsons maintained that, in her view, the evidence was overwhelming. In any event, she also explained that no decision could be taken until the child was born.

[160] She was questioned about the child protection visit on 27 November 2016. While she accepted the inclusion of allegations would upset the second respondent, she did not accept this justified the level of abuse the second respondent exhibited. She also accepted that, while meaningful engagement declined after 17 November, there had been some

engagement up to December. However, she did not accept the proposition that the violence and abuse she referred to was confined to the later period, ie from December 2016 onwards. She did not accept that in the run-up to the end of December 2016 there had been only one missed home visit. She explained that there were a number of unsuccessful child protection visits. Some weeks social workers were admitted; in other weeks, they were not. Sometimes social workers had to return several times, and on some of these occasions the respondents could be seen through the blinds.

[161] She was referred to her Minute for the child protection core group meeting of 13 December 2016. In the risk factors recorded at the end, the allegation of sexual abuse by the second respondent of a young relative reappeared. She accepted, as she had when this same point was put to her in respect of its inclusion in an early report, that the second respondent had the right to deny this. She maintained that this information came from Gloucester. She resisted the proposition that the reappearance of this allegation would be upsetting for the second respondent, observing that the second respondent had not interacted well with others who had not prepared this report. In respect of the query recorded, as to whether or not the second respondent was taking or misusing his prescription drugs, she did not accept the proposition that the second respondent was taking his medication. The second respondent's GP stated that he needed a prescription and that he wasn't receiving this or taking his medication. She had made two calls to the second respondent's GP and also obtained information from the CPN, who had access to all of the medical records.

[162] In relation to the photographs depicting the inside of the respondents' flat in Gloucester, she was resistant to accepting that these were historic. However, she accepted that none of the petitioners' social workers recorded similar observations in respect of the

respondents' flat in Fife. She was challenged as not taking a balanced approach or failing to reflect a change on the part of the respondents. She accepted that she required to keep an open mind about these matters and had failed to record the improved state of the respondents' flat in Fife as a positive. She did not accept that she failed to balance the negative factors with positive ones. By January 2017, the petitioners' social workers were regularly refused access to the respondents' flat.

[163] In relation to the circumstances surrounding the birth of the child, she confirmed that she had called the police upon learning that the first respondent was in labour. This was because of the respondents' stated intention to have a home-birth and to refuse to go to hospital. She resisted the proposition that this would have caused more stress for the respondents, maintaining that they were aware of the multi-agency plan, which included calling the police. Her principal concern was for the child not its parents. She was not personally aware that the police stopped the ambulance. This had not been advised to her by the ambulance staff or police. She accepted, however, that this incident could have happened.

[164] She estimated that she took about 2.5 hours to obtain the interim protection order from the sheriff court and that, therefore, the respondents could have had this length of time with the child before its removal. She accepted that they had not left the hospital before then, but she observed that they were in the ward and not down in the nursery with the child. With some reluctance, Kerry Parsons eventually accepted that it might have been the case that the respondents were not told that they could see the child in the nursery after its birth. It was put to her that even if they had been told this, the events surrounding the child's birth and which, on the respondents' version, included the police stopping the ambulance, would have been very stressful for them and they might not have understood all

of the information presented to them at that time. She accepted they might be in a state of shock and that it would be harsh to judge them for a possible misunderstanding. She also accepted that the second respondent was a vulnerable adult and that his reaction to her (of feeling intimidated) was understandable in the circumstances.

[165] She was next asked about the report placed before the sheriff at the time the interim orders were obtained at birth. By and large the challenges were the same as already noted above. She was challenged about recording the observation of a family member that the second respondent was abusing alcohol, whereas the underlying entry from the case file reported the family member's concern that he wanted money to buy alcohol. She maintained that it was appropriate to rely on this, and that the import was the second respondent abusing alcohol. She was also challenged about recording the information from the police photos about the state of the respondents' flat in Gloucester, without balancing this against the acceptable state of the respondents' flat in Fife. In respect of the incident on 2 December 2016 when the second respondent was suicidal, the relative part in the report to the sheriff referred to the second respondent as "brandishing a knife". However, Kerry Parsons accepted that there was no reference to a knife in the underlying chronology documentation.

[166] It was put to her that the second respondent was too worked up after the birth of the child to instruct solicitors and that this provided an explanation for his non-engagement at that time. Kerry Parsons resisted this, as he had told her by this time that he had already got legal advice and solicitors. If so, he could have had a solicitor attend in his place. Furthermore, notwithstanding that the petitioners' position was that there should be a condition of no contact, if the second respondent had wanted contact there would have been a hearing to consider this.

[167] The curator's report was put to her, but she had never seen this. The adverse conclusions in it were put to her, but she accepted none of these. In short, her position was that the curator had never spoken to the petitioners' social workers to get their side of the story. She adhered to the decisions and assessments made by the petitioners. In relation to the observation that there had been no effort to rehabilitate the child to the respondents, she explained that the petitioners had taken legal advice and needed to make a decision about permanence. Matters were then referred to the permanence team. She accepted that the petitioners had not instructed an expert report to address whether the second respondent's mental health issues compromised his ability to parent. She did not accept that this was required, in circumstances where there had been a parenting assessment four months earlier and with which the respondents did not engage. Their non-engagement remained relevant at the time of the child's birth. She did not attempt to visit the second respondent after that point, because he had made it clear that he did not want her to visit them. She was challenged about the accuracy of when she said her involvement ceased, but she explained that she had not had access to the petitioners' records while she had been on maternity leave. In relation to an apparent discrepancy between the evidence of Lesley Stevenson and that of Debbie Adamson, as to the point in time when a definitive decision was taken to recommend permanence, Kerry Parsons supported the later date. This was because a proposal for permanence could not be approved until it had come before the petitioners' permanence panel. Lesley Stevenson' evidence that this decision had been taken at the looked after child review meeting on 17 March 2017 was not correct. A permanence plan could not have been agreed at that date, although it could be considered and proposed.

[168] Kerry Parsons was next questioned about whether or not the petitioners had considered alternative or kinship carers rather than foster carers. She maintained that any

possible kinship carers had been checked at the time. Generally, she had checked into the second respondent's extended family but had also found concerns and other family members in the care system. Again, she could not be specific about these investigations at this stage, because she had been on maternity leave for the last five or six months and had had no access to the records or file notes. All the investigations would have been recorded in the file notes. The petitioners would not be able to consider kinship carers, if the respondents did not identify individuals. No full kinship assessment had been carried out because no one had presented themselves as eligible and neither of the respondents had provided any names of members of their respective families for this purpose. She maintained that at no point did the respondents ever help with this or suggest any alternative kinship carers. She referred again to the fact that the respondents did not attend the looked after child review hearing or other meetings held by the petitioners after the birth of the child, where this might have been raised.

Re-examination

[169] In re-examination, she confirmed that she had been on maternity leave since November 2017. In respect of the issue of kinship carers, she confirmed that the petitioners would require an interested party (ie a potential kinship carer) to be identified before an assessment could be carried out. No mention had been made of this or of a possible suitable candidate by the respondents or their lawyers. In respect of the suggestion that contact could have been considered and governed by a contact contract, Kerry Parsons explained that there was no realistic prospect of the second respondent signing this. In her experience, in the majority of his interactions with her he was not up for any discussion with the petitioners' social work department; he maintained there was no basis for any concerns and

believed that the petitioners' social work department should not be involved. The petitioners were unable to provide support by reason of the second respondent being so hostile. As she put it, the social workers could not even get in the door. There were weeks of no access or where they needed to call police to obtain access. She had some ongoing interactions with the first respondent but not with the second respondent, as he had banned her from their flat. She had endeavoured to meet with the respondents in the days after the birth of the child, but the outcome was that the respondents did not want her to attend. In respect of the allegation of sexual abuse which the second respondent denied, she confirmed that she was not free to omit this as a potential risk factor simply because the second respondent denied this. In her view, the second respondent could have attended at any of the Children's Hearings, including the one convened at his instigation in July 2017, in order to challenge this and to make his views known. Neither of the respondents attended these.

[170] In respect of the questions in cross-examination predicated on the proposition that the second respondent was very upset, Kerry Parsons explained that whatever the cause, the second respondent's volatile behaviour and presentation still posed a risk of harm to the child if exposed to such behaviour. From the child's perspective, the motivation behind such behaviour was irrelevant. In respect of the curator's report, she would have expected him to take into account the respondents' non-engagement and their failure to attend looked after child review hearings or children's panel meetings, before concluding that the petitioners' conduct was "unwarranted" or "cruel". She remained of the view that there was no alternative other than to accommodate the child from birth. All levels of contact had been discussed at the Children's Hearing meetings. Further, whatever the recommendation, a decision about permanence was taken by the permanence panel. Notwithstanding

engagement in early November, neither respondent was able to maintain that level of engagement for any length of time.

Debbie Adamson

Affidavit

[171] A great deal of Debbie Adamson's affidavit covered a period prior to her involvement and was essentially dependent on the notes made by Kerry Parsons, whose evidence I have already recorded. There is little utility in repeating that material, when Debbie Adamson had no direct knowledge of these contacts. The parts of Debbie Adamson's affidavit of which she had direct knowledge, were as follows:

1) Her involvement was from March to November 2017, while she was a member of the permanence mentoring team. The purpose of that team was to identify and promote a permanence plan for a child. This could be a plan to rehabilitate a child to its parents or to a third party, if that were necessary. In that capacity, she was responsible for progressing the permanence plan for the child.
2) She was the author of the Application Report in support of the petitioners' application for the orders, which she adopted as part of her evidence. She compiled this from case and profile notes, minutes of meetings and reports of the core group and child protection meetings, and her own interactions with the respondents as well as her discussions with colleagues. She recorded the social work department's concerns, which included the following factors: that the respondents' older child, the older sibling, had recently been removed from their care and was subsequently adopted following English proceedings; the terms of the parenting assessments in which it was concluded that neither parent had the

capacity to care for the older sibling; that the first respondent was herself a looked after child; that she was only 17 at the time she moved to Scotland and while she was still subject to a care order in England; the fact that the first respondent was in a relationship with the second respondent who was a much older man; that the first respondent had prioritised her relationship with the second respondent and as a consequence had only maintained six weeks in a mother and baby foster care placement with the older sibling; that the first respondent had previously been vulnerable to child sexual exploitation and that she had come from a large family with considerable social work involvement. In addition, the older sibling had been born prematurely and there were concerns for its welfare.

3) Debbie Adamson's manager, Lesley Stevenson, asked her to take over the case management for the child who was then five weeks old. The case was formally transferred to her on 20 March 2017. The chronology includes Debbie Adamson's interactions with the respondents from this time. In terms of the respondents' non-attendance at meetings with her on 30 March, 11 April, 30 June, 7 July and 17 and 23 October 2017, Debbie Adamson characterised this as consistent with the respondents' pattern of behaviour, as did their non-attendance at the Children's Hearings on 12 April, 28 July or 2 November or the looked after child review on 20 July. Meantime, she continued to see the child in its foster placement on a four-weekly basis. She found the child very settled, happy and making good developmental progress. She described it as forming a strong attachment to its foster carer.

4) As there was some cross-examination on certain communications, I record that she received two letters from the second respondent's agents, dated 16 May and 19 June 2017. She did not reply to the first of these letters ("the May letter"), because she had understood that it was simply advising of the second respondent's position and did not require any response or action on her part. Her response to the second letter was to invite the respondents to meet with her to discuss the issue of contact.

5) Debbie Adamson wrote to each of the respondents on 10 July requesting them to meet with her at the social work office on 19 July to discuss the second respondent's request for contact. The first respondent left a message with the social work department asking to be called back but did not leave a current contact telephone number. Debbie Adamson called the second respondent on the number held for him. He challenged her as to how she had his number. The second respondent would not pass on the first respondent's telephone number, but he would ask her to call Debbie Adamson back. This did not happen. On 13 July the second respondent contacted the social work department, and complained about the call he had received the previous day from Debbie Adamson while he was visiting his father in hospital. He asked for his own telephone number to be removed from social work records and that all further contact be by letter. Debbie Adamson regarded this as significant and as indicating that the respondents did not wish to be assessed or for the social work department to understand their current circumstances. She explained that the petitioners' social work department had no idea what the respondents' plans were or what their thinking was. Also on 13 July 2017, Debbie Adamson received

an email from the first respondent asking for her number to be removed and stating that she wanted nothing to do with social work. In particular, the email from the first respondent stated that she would not meet with Debbie Adamson while there were two false allegations, the first being that she had started her relationship with the second respondent when she was aged 12 and the second one being the allegation in paperwork from Gloucestershire social services that her mother's ex-partner had inappropriately touched a sibling of hers. She was not prepared to meet with Debbie Adamson.

6) The only direct face to face contact Debbie Adamson had with the second respondent was at a meeting with him at the social work offices on 19 July 2017. (Debbie Adamson never met the first respondent.) By this point, the second respondent had sought and been granted an early review of the interim CSO and for which a Children's Hearing was scheduled for the following week, on 28 July 2017. On 19 July 2017 the second respondent attended at the office to meet with Debbie Adamson. He explained he was attending on the advice of his solicitor and that he had called for an early review of the CSO. He explained that he would not be attending the looked after child review the next day (on 20 July) because his father was unwell. She described the meeting with the second respondent in the following terms [*per* paragraph 49 of her affidavit):

> "[The second respondent] asked me about contact with [the child] but I asked him about previous failures to meet with me and he said he had a lot on with his dad being unwell. He presented well. He advised he was seeking support for alcohol use and support for mental health. He told me he had an anti–social behaviour disorder. He spoke about his medication and about being on beta blockers for anxiety. He was hoping to be referred to a Community Psychiatric Nurse. He told me that he had issues with his housing situation, his landlord wasn't attending to things. He told me [the first respondent] didn't want to meet with Social Work

> and was finding things very difficult. We spoke about the forthcoming children's hearing that he called. He said he wanted to see [the child] to get a bond with [it]. I asked about the purpose of this now given that there has been not [sic] contact since [it] was born. And he told me he just wanted to see [it]. I explained to him the plan for [the older sibling] and that this would be placing [the child] with [its sibling] in England. He was surprised about the plan because he felt we couldn't move [the child] to England but otherwise didn't challenge it. I said we would not be supporting contact at the Hearing given the lack of engagement and history and he accepted this. He didn't challenge anything that I said. We spoke about the LAC review for the following day and he said he would be unable to attend as he was seeing to his dad and we confirmed the arrangement of the Children's Hearing the following week….. He was clear on the arrangements. There was no challenge or confrontation. He accepted everything I said. He was calm. I thought he could be aggressive to me but he wasn't. It was fairly positive. He engaged. I fully expect him to attend the hearing. There was no indication he wouldn't attend."

However, the respondents neither attended nor were represented at the Children's Hearing.

7) The only contact the first respondent initiated with Debbie Adamson was her letter of 17 August 2017 requesting photos of the child. Debbie Adamson sent these on 6 September, after she visited the child and had had the photos developed. On 25 September Debbie Adamson sent further photographs with a letter requesting the respondents meet with her on 17 October. She explained that the reason for the meeting was because of the minimal engagement on the part of the respondents after her meeting with the second respondent on 19 July 2017. She also thought the respondents would wish to have an update about the child and the petitioners' plans.

8) In respect of the child, Debbie Adamson explained that it moved to its prospective adopters in November 2017. She had had a lot of involvement in this process. She visited the child four times with its prospective adoptive parents in

England. She described the child as very well settled and eating and sleeping well. She described the relationship between the child and its older sibling as "remarkable", and almost as if they knew they were siblings. The child was making really positive and secure attachments. It was a very happy baby. It was meeting all of its physical health and developmental milestones, and was thriving in the care of its prospective adoptive family.

9) In Debbie Adamson's view it would be seriously detrimental should the child be returned to the respondents' care. This was because the child had never lived with its parents and there had been no contact with them due to their own failure to engage. In her view, the petitioners' social work department went to extraordinary lengths to work with the parents; there were constant visits and phone calls but, ultimately, to no avail. She described the child as secure and in an excellent relationship with the older sibling. To remove it from everything it knew would cause serious harm. The child had no understanding of who the respondents were. In her view, for the second respondent it was "all about him". She referred to his Freedom of Information request for himself, asking "how could the social work department do this to him?". She also referred to his efforts to obtain his social work records, because he believed there was inaccurate information in them. This was raised during visits. She noted that at no time had the respondents ever provided anything for the child. They had been provided with photos and a plaque with the child's footprints, but they had given nothing to her for it. In her view throughout the whole period, as well, the respondents had rarely approached social work concerning the child. While they had asked for a Children's Hearing for an early review of the CSO because the

second respondent wanted contact, he hadn't attended. She surmised that he had only approached her to discuss contact because of the early review the second respondent had called. She also noted that during even their limited communication with her, the respondents never asked about the child but Debbie Adamson had to take the initiative and volunteer information about it. She described them as always complaining about themselves and how they had been treated; they showed little interest in the child. She found this very rare in her work with families in similar situations. In her experience, the majority of parents would ask about the children and provide something like clothes or a toy. She described the respondents' complete non-engagement as unusual. The respondents knew how to contact her but they only did so when they wanted to complain about something. In her view, the respondents had had ample opportunity to meet with previous social workers and with her. She also stated that while the petitioners had made an assessment resulting in a condition of no contact, in her view had the respondents met with social work or attended meetings concerning the child, she regarded it as likely that the Children's Hearing would have granted an element of contact had the respondents engaged with social work. She repeated her observation that the second respondent never asked about the child or what it was doing, but that she had to volunteer such information.

10) In relation to the respondents' assertion that social work had provided no help, Debbie Adamson strongly refuted this. She referred to the chronology and the repeated attempts on the part of the petitioners' social work department to contact or meet with the respondents. She referred to the meeting of two Team

Managers with the respondents at their home on 1 February 2017. She also referred to the practical support by way of bus tickets, taxis, food vouchers and social workers' encouragement for the second respondent to deal with his mental health problems. They had encouraged the second respondent to register with his GP. In relation to the first respondent, the social work department had tried their best but found their attempts blocked by the second respondent.

11) In her view, there were no possible alternatives to adoption. There were no appropriate alternative kinship carers and no one from the respondents' families came forward to be assessed. The only input they had had from the second respondent's family, who lived locally, was a little help provided to the second respondent from his aunt when the respondents had first come to Scotland. This fell through following a family dispute and resulted in the respondents being asked to leave her home. She explained that the social work department would have kept matters under review, in the knowledge that parental circumstances can change. She repeated her observation that had the respondents engaged, the interim CSO might well have been varied to allow some contact. In her experience this could happen even where the local authority did not support contact. What could not be permitted was for the child to wait for the respondents to do right by it.

12) In relation to the suggestion that the petitioners' social work department had prejudged the case, she resisted this. She explained that the petitioners' social work department had approached this case with an open mind. It did the best with the information it had, and tried to encourage the participation of the respondents but they remained obstructive. She regarded this as the "most

disengaged couple" that she had ever come across. Their refusal to work with the petitioners' social work department made it impossible for the child to be returned to them.

Examination in chief

[172] Passages from the first respondent's affidavit were put to Debbie Adamson for comment, as follows:

1) In relation to the first respondent's belief that the social work department were determined not to let her have contact, Debbie Adamson rejected this. She explained that there had been numerous attempts to meet with the respondents about their child but they continued to fail to meet with the social workers. Nor was it correct that the social work department did nothing to facilitate contact.
2) She did not understand what "promises" had been made and not kept, as the first respondent contended. It was not correct that the first respondent had not been given a chance by the social work department. She repeated what she stated in her affidavit that the respondents did not attend any meetings concerning the child or any Children's Hearing or LAC reviews. It was because of that failure that the petitioners' social work department was unable to assess the first respondent's capacity or circumstances.

[173] Certain passages in the second respondent's affidavit were also put to her to comment on, which she did as follows:

1) She did not accept the second respondent's description of their one face-to-face meeting, and at which he referred to being intimidated or feeling trapped. She could not understand how he had this impression, given her own description of

the meeting as generally positive. He had sought contact but she had explained to him that she could not recommend contact because of the respondents' lack of contact up to that point and the lack of any assessment of the parents.

2) In response to the similar contention that the social work department had provided no support, she gave the same answer as she had to this statement in the affidavit of the first respondent.

3) On the question of kinship carers, she explained that the second respondent never told the petitioners' social work department of any other family members. It was her understanding that the second respondent had fallen out with his family before the child was born.

[174] The terms of Dr Petrie's report were put to her, and she confirmed that nothing in this changed her view or her approach to the case. The first respondent had never told social work that she suffered from post-natal depression. She had had only one meeting and she never raised this and never said that she suffered from depression. She was aware that the first respondent was a vulnerable young adult and suffered low moods. The second respondent often spoke about his own mental health and alcohol use.

Cross-examination on behalf of the first respondent

[175] Debbie Adamson was first asked about the apparent discrepancy between her evidence (to the effect that she was unaware that the first respondent suffered from depression or post-natal depression), and that of others, such as Lesley Stevenson, (who was aware that the first respondent suffered from this). Debbie Adamson maintained that she was correct. Lesley Stevenson oversaw the management of some 300 cases and would not have the same in-depth knowledge. In any event, she explained that, by reason of the

respondents' failure to meet with the social work department, there was no up-to-date information. It was put to her that the first respondent's post-natal depression might have been one reason why the first respondent had not been in contact, but Debbie Adamson stated that social work were not aware of that until now. She nonetheless maintained that the first respondent had to prioritise the needs of her child over her own. She was aware of many parents who suffered from post-natal depression but who were able to engage with social work in order to have access to their children. In her experience, people were able to do this even with such a condition or diagnosis. She was also challenged on her observation to the effect that the first respondent never took up an opportunity to contact her about the child. Debbie Adamson accepted that, on occasion, the first respondent did, but in her view this was only when she also wanted to ask for something.

[176] After it was established that Debbie Adamson had taken over in March 2017, once a permanence plan had been identified and agreed, she was challenged on the delay of six months between that decision and the raising of the present proceedings. Debbie Adamson explained that there was a process to be followed, legal advice and medical information to be obtained, and a presentation made to the permanence committee. Everything had been done as quickly as possible.

[177] She was next asked about her reliance on the parenting assessments from Gloucestershire social services. However, she confirmed that she also had regard to the social work department's meetings, including home visits, with the respondents.

[178] She was challenged for having given less than two days' notice to the respondents of the first meeting that she wished to have with them, in late March 2017. She explained that she wanted to meet with the respondents as soon as possible in order to get their views.

[179] She was next challenged on her failure to respond to the May letter from the second respondent's agents. As she had interpreted this letter, it was simply advising the social work department of the position of the second respondent and it did not call for a response.

[180] She was questioned about the first respondent's email of 13 July (asking for no further contact to be made (see para [74] of Appendix 1). It was put to her that the proper interpretation was simply that the first respondent did not herself want social work contact because she had turned 18. Debbie Adamson acknowledged this but repeated that she was not the first respondent's social worker but was the social worker allocated to the child. It was put to her that this same email indicated the first respondent being "interested" in receiving photos of the child. Debbie Adamson confirmed the first respondent had requested photos but repeated her evidence that the first respondent wasn't interested enough to meet with them. She accepted that it was a "positive" for a young mother to request photos of her child.

[181] She was also cross-examined on the terms of a file note of the first respondent's call to Lesley Stevenson on 19 July 2017 (see para 80(6) in Appendix 1). Debbie Adamson explained that Lesley Stevenson made her aware of this telephone call. She accepted that she had interpreted this as no more than a request for a one-off contact and not for more regular contact than that. It was put to her that this demonstrated engagement on the part of the first respondent. Debbie Adamson did not accept this, pointing out that the first respondent failed to attend the Children's Hearing nine days later. It was put to her that the minutes of meetings did show engagement, but Debbie Adamson had only met with her once. (This is not in fact correct, as the first respondent never met with Debbie Adamson.) The meeting that the respondents had on 1 February 2017 with Mr Bochenek was offered as a further example of engagement, but again, Debbie Adamson did not accept this. In her

view, this was not real engagement; it was superficial. In relation to the second respondent's single meeting with her, he had made it clear that he was only meeting with her because he had been advised to do so by his solicitor. She was pressed on her perception of the quality of engagement but she explained that it was only "real" if a person exhibited insight and an intention to change.

[182] She was next challenged for failing to arrange parenting assessments of the respondents. She explained that she never did suggest that because the first respondent had never met with her. Had she done so, things might have been different. If the respondents had met with her and made clear what their plans were then there could have been an assessment or, indeed, they might have been able to secure contact via the Children's Hearing. But they had made no contact. They had not met with social workers. They had not attended any hearings. She was pressed that if there were concerns about the parents that was all the more reason for assessments to be undertaken. Debbie Adamson denied this, when the parents would not meet with her. She was pressed that she could have written to them about parenting assessments. She explained that she had written repeatedly to ask them to meet with her to discuss the planning for the child, but to no avail.

[183] She was next challenged on her assessment, as recorded at paragraph 62 of her affidavit, that it would be seriously detrimental for the child to be in the care of its parents. She maintained that it would be detrimental to remove the child from its current placement but she accepted she was not saying that it was at direct risk of harm from the first respondent. It was suggested that she was being unfair to make any adverse conclusion about the first respondent, as she had not met her. Debbie Adamson referred again to the lack of meaningful engagement by the first respondent. By reason of her lack of

engagement, there was no evidence that the first respondent was able to supplant the concerns that had persisted.

[184] She was also challenged that she had painted a negative view of the respondents in her meeting with Dr Edward. She maintained her position that the first respondent had only once asked for contact with the child (ie the call to Lesley Stevenson) but had repeatedly refused to meet with her to discuss contact.

[185] Reference was made to the curator's report and to the subsequent email exchange between her and Mr Bochenek, in which the latter had said that, in retrospect, it might have been better to include a provision for contact in the original CSO. She was asked whether it would have been better for some contact to have been permitted from the beginning. Debbie Adamson conceded that it was uncommon to have a condition of no contact in interim orders from birth. In the case of non-engagement by the parents and in the absence of an assessment of the capacity, the sheriff might initially make an order for no contact but in her experience that would usually be changed later. This had not happened in this case because of the parents' non-engagement. Under reference to the observation in the curator's report that there was no evidence of a direct physical threat, Debbie Adamson was pressed to accept that there was no direct threat. In her view, it was impossible to say anything positive in respect of the respondents. She did not accept that there had been no threat to remove the child. A concern had been passed to the social work department about the respondents' intention to leave. She did not accept the curator's assessment that it was "unwarranted and cruel" to move the child from birth in the absence of such threats. She would seek the same orders today. She was pressed repeatedly on the terms of the curator's report and his observations that the conduct on the part of the petitioners had been "draconian" and "unwarranted". She did not accept these criticisms. In her view, the

cross-examiner was being selective as to the passages being referred to. The petitioners' social work department had been unable to undertake assessments and the respondents had not engaged. There needed to be a level of engagement, as there was a serious risk of harm, given the history in respect of the older sibling and the aggression from the second respondent. The respondents simply had not prioritised the child's needs.

[186] It was put to her that the first respondent had attended some of her medical appointments, but Debbie Adamson noted that there were many she did not attend.

[187] She was challenged on the basis that the petitioners' social work department never attempted rehabilitation. She explained that they had tried to meet on numerous occasions but the respondents failed to attend. The petitioners had not been in a position to consider rehabilitation by reason of the respondents' non-engagement and their failure to meet with petitioners' social workers. Her recommendation for adoption was as a consequence of their non-engagement and because of the outcome of the proceedings in England in relation to the older sibling.

[188] She was challenged on the failure, it was said, to undertake parenting assessments of the respondents, as had been undertaken by Gloucestershire social services. She maintained her position that there was no opportunity to do so and she repeated that the first respondent had never met with her. She was challenged that she had not sought the first respondent's views but she maintained that the first respondent never met or engaged with her.

[189] She was also challenged on her observation that the respondents' "failed to prioritise" the child's needs. She rejected this. She referred to a telephone call she had had with the respondents to ask them to sign medical consent forms so that the child could have its immunisation shots. The call ended abruptly when the second respondent hung up.

Accordingly, even for immunisations, the petitioners required to go to court to get authority for this. In her view, not giving consent for immunisation or medical treatment but asking for photos, was not prioritising the child's needs.

[190] She was then questioned in detail about the bullet points in paragraph 40 of the Application Report (see para [5], above), in support of the permanence orders, in particular:

1) In relation to her observation that the respondents had "initially concealed" from Gloucestershire social services that the first respondent was expecting the child (bullet point 1), it was put to her that this had not been hidden and, for example, had been disclosed in the respondents' application for the housing.

   Debbie Adamson maintained that the respondents did not tell Gloucestershire social services that they were moving or that the first respondent was pregnant again. The first respondent had not advised Gloucestershire social services at the time and Debbie Adamson regarded this as concealment, given the concerns and the situation in England about the older sibling.

2) In relation to her concerns about the respondents' failure to work with health and social work professionals to assess the family home for the purposes of a home-birth (bullet point 2), she was adamant that the petitioners had made an offer for such an assessment to take place. So far as Debbie Adamson could recall, there had been 12 attempts to visit, including two attempts by the community midwife, Wendy Johnstone, but access to the flat been refused and it had not been possible to assess the suitability of the respondents' flat for a home-birth.

3) She was also challenged that her observation about the respondents leaving the hospital two hours after the child's birth and the first respondent refusing a post-natal check-up (bullet point 3), was unjustified. She accepted that after the

interim child protection order had been served with a condition for no contact, the respondents would not have been able to see the child. In relation to the first respondent's refusal of post-natal checks, while this might be a risk factor for the first respondent, it could not impact on the child. Debbie Adamson accepted that this would not be detrimental to the child.

4) In relation to the respondents' failure to attend meetings and hearings (namely, the Children's Hearings on 24 February, 12 April, 20 July and 2 November 2017; or LAC reviews on 17 March and 20 July 2017; or child protection case conferences on 16 November 2016, or 8 February and 17 March 2017), it was put to her that this had no repercussions for the child, a proposition which Debbie Adamson did not accept.

5) Debbie Adamson's observation that the import of the first respondent's email of 13 July 2017 that she wanted "nothing to do" with the petitioners' social work department (see para [74] in Appendix 1), was suggested to be incorrect and not a relevant risk factor. Debbie Adamson did not accept this, asking how could the social work department assess if the child would be safe if its parents would not meet with them. She was also challenged on the basis that there had been some contact in July 2017, but Debbie Adamson explained that this was only for a short period in the run-up to the Children's Hearing.

6) Her observation about the respondents' failure to meet with Kerry Parsons on a number of occasions was in the past (ie it should be disregarded), which Debbie Adamson did not accept. She noted that the respondents failed to meet with the allocated social worker on 19 July 2017, to attend the looked after child

review or the Children's Hearing in the following week, or to sign the medical consent forms.

[191] In relation to her observation that the respondents had had no contact, it was pointed out that there was a condition of no contact from the outset of the child's birth. Debbie Adamson accepted this but responded that there were several Children's Hearings at which this condition could have been changed, had the respondents attended or tried. It was put to her that, overall, this was not a strong case for demonstrating "serious detriment" or that the respondents failed in their parental responsibilities. Debbie Adamson rejected this.

[192] It was put to her that the matters recorded about the first respondent's own childhood and background did not directly relate to the question of serious detriment to the child. (See para [30], above.) Again, she did not accept this proposition. These matters had a significant impact on the first respondent's ability to care for the child. The first respondent's childhood had been unsafe and she spent the majority of her childhood with local authority involvement. Collectively, these matters affected the first respondent's ability to parent. It would also affect her ability to prioritise the child's needs over her own or to provide reliable care for the child. She accepted there was no question of drug use on the part of the first respondent. She again refused to accept that what she had set out was only a weak case.

Cross-examination on behalf of the second respondent

[193] There was a series of questions exploring the timing of the petitioners' decision to promote permanence and the approaches by the petitioners' social work department to the foster carer or prospective adopter in February 2017. Debbie Adamson explained that the

decision to promote permanence was taken in March 2017 and it was her responsibility to progress that plan. She also explained that, if it were the case that the prospective adoptive parents might have been contacted earlier, this was not unusual if a child being considered for adoption had an older sibling who had been adopted. That contact notwithstanding, matters remained under consideration. Sometimes prospective parents decided they could not accept another child. However, the petitioners would have looked at all options.

[194] Debbie Adamson was challenged that if the permanence plan was recommended at the meeting on 17 March 2017, then the child was only three weeks old at that point. She was also challenged that there was no contact initiated by the petitioners between 22 February and 20 March 2017. She accepted the petitioners made no contact during that period.

[195] It was put to Debbie Adamson that the second respondent had found it all very stressful after the birth of the child. Debbie Adamson acknowledged that this would be the case and she accepted that the second respondent had mental health issues. It was suspected that this might explain why there was no contact initiated by the second respondent, but Debbie Adamson maintained that no matter what a parent had to prioritise the needs of its child. The second respondent had not done so. In response to several questions, she confirmed that the second working day hearing had been intimated to the second respondent and, even if there were no written record of this, he would have been told this at the child's birth. She was confident also that the second respondent was aware of the eighth working day hearing, although she had seen no letter sent out about this. She confirmed that if grounds were "deemed" established this simply reflected the fact that they had been unopposed.

[196] She did not accept the criticism that there had been any delay in her progressing matters, given that the decision was taken at the Looked After Child review meeting on 17 March to promote permanence. She had sought a first meeting with the respondents on 20 March. In her view it was important to move quickly as she did not want the child staying with foster carers waiting for its parents to determine when and if they would meet with her. She did not agree that two days was insufficient notice to give to the respondents for a first meeting with her. There followed several questions critical of the fact that Debbie Adamson's letter had not been sent recorded delivery and that the reference to 28 March was an error. Debbie Adamson did not accept these criticisms and she maintained that the respondents had received her letter. It was also put to her that her experience of "non-engagement" had been what she had been told and that her own experience was only one missed meeting. Debbie Adamson nonetheless referred to the history of non-engagement.

[197] She was challenged that the letters from the second respondent's agents reflected engagement but Debbie Adamson did not accept this. This was not direct engagement, it was through the second respondent's agents. The second respondent had all of her contact details in the form of her email address, her extension and her mobile numbers. She was also challenged that the delay in her responding to the first letter sent by the second respondent's agents had had an effect because the permanence decision had already been made. Debbie Adamson maintained that that decision was always open to review. It was suggested that the sending of these letters constituted the second respondent seeking engagement and contact, but she commented that the respondents had done nothing. Debbie Adamson maintained her position that the May letter from the second respondent's agents had simply advised her of the second respondent's position. She did not understand

it as inviting any response. She confirmed she did not undertake enquiries at that time and that she also had a period of annual leave. She was also challenged that she had made only three attempts to contact the respondents in a three-month period. She accepted that it was correct she had attempted contact three times in that period.

[198] She was questioned about her meeting with the second respondent on 19 July 2017. She accepted that the second respondent's father was terminally ill. She was challenged as to how it could be perceived to be a negative that the second respondent sought advice and wrote to the petitioners through his agents. Debbie Adamson maintained that the second respondent had had ample opportunities previously to obtain advice, but he hadn't.

[199] Under reference to the curator's report, it was put to her that it was natural for the respondents to be wary of the social work department. Debbie Adamson explained that there were a lot of parents in similar circumstances who were nonetheless able to prioritise the needs of their child and to meet with social workers. She accepted that the condition of no contact from birth was unusual, but she also explained she had never seen this degree of non-engagement on the part of parents. She had never had a similar experience of parents who failed to meet with her. She was challenged that she was looking for engagement on her terms, to which she replied that they simply refused to meet with her. She accepted elements recorded in her file note of her meeting with the second respondent were positive, namely, that he had "presented well" (she explained that was because previously he had been aggressive) and that he had engaged with mental health services. She accepted that the second respondent provided his mobile number and was willing, on that date, to be contacted. But she explained, however, that he did not engage or attend meetings thereafter. She was challenged that she had not mentioned this exchange, ie that the second respondent had been happy to provide his mobile number for social workers to use to contact him,

when she had met with Dr Edward in April 2018. Debbie Adamson stated that she did not deliberately mislead Dr Edward about this; she knew the case well but did not have case notes with her. She was not aware that Dr Edward had regarded the second respondent's request for his number to be removed from social work records as significant.

[200] She confirmed the chronology that, by July 2017, the petitioners' intention had been for the child to be adopted and that the second respondent had been told this at the time; that by August the permanency panel had met and by September a decision taken. She was challenged that her file note for the hearing on 28 July 2017 did not refer to any discussion about adoption but Debbie Adamson explained that the Children's Hearing of 28 July 2017 called by the second respondent was not specifically directed to the question of the adoption of the child. She accepted, as was put to her, that, as at 19 July there had only been two attempts by the petitioners to contact the respondents after the permanency decision had been made. Indeed, by then, the petitioners' plan was aiming for adoption. She was again challenged as to her failure to respond to the May letter from the second respondent's agents, and this was comparable to the respondents' failure to respond to her letters, but Debbie Adamson explained that the onus was on the parents to contact her.

[201] In relation to her meeting with Dr Edward in April or May 2018, it was put to her that it was an exaggeration on her part to state that the respondents did not engage "at all". Debbie Adamson maintained that these were not her exact words but she adhered to her position that the respondents had not engaged in any meaningful way prior to the child's birth or after. She was again challenged that the petitioners did not offer any assessment of the respondents' capacity to parent the child, but Debbie Adamson explained that in order for such an assessment to be made the parents needed to engage and it was not possible to have an assessment without proper engagement.

[202] She was challenged that it was not correct to state that the second respondent had asked the social work department in July 2017 to remove his contact details. The call from the petitioners which had prompted this had come while he was visiting his terminally ill father in hospital. Debbie Adamson accepted that, thereafter, the second respondent had provided his number to the petitioners' social work department. She also accepted that the impression this gave, of focusing solely on the second respondent's demand that his telephone number be removed without recording that he provided it again six days later, was an inaccurate impression. She was also challenged because she had provided information to Dr Edward to the effect that this request by the second respondent had been in April or May and that this was incorrect. She accepted that she must have said it was around April and that this was incorrect.

[203] In response to further questions on the issue of engagement, Debbie Adamson maintained that there was no substantial engagement on the part of the second respondent, notwithstanding that he had instructed agents to send two letters about contact and had called a Children's Hearing to consider that issue. She reiterated her understanding, that there had been no engagement on the part of the respondents after the child's birth. Her comments about non-engagement referred to the whole situation and not just her relatively limited period of contact with the respondents. She was challenged on her observation that the parents had a duty to come to her, but she countered by referring to the parental rights and responsibilities imposed on the respondents by law and of her attempts to try to meet with them. She explained that they had a duty to meet with her to promote the best interests of the child.

[204] In relation to the observation recorded in Dr Edward's report, based on Debbie Adamson's comment that the respondents did not "specifically" ask about the child,

she explained that the respondents had met with her after they received the curator's report. The second respondent spoke about housing, about his father and requested information about himself. The first respondent barely spoke at all. They did not ask after the child but she had to offer information about it. The respondents would have had reports produced about the child. She accepted that the second respondent had engaged at that meeting. It was put to her that parents could ask any time for contact or to have the child back, but in her experience it was unusual for this length of time to pass before a parent asked for its child back.

[205] She was again asked a series of questions under reference to the two letters from the second respondent's agents. She reiterated her understanding that the May letter was simply advising of the second respondent's position and that a Children's Hearing had been called for the purposes of an early review of the CSO. She observed that this was some months after the birth of the child. If the respondents had had any interest in the child, they would have met with the petitioners' social work department or provided gifts for it; or they would have met with the petitioners' social workers about planning for the child. They did not do any of this. She stood by her observation that the second respondent showed "no interest" in the child.

[206] Turning to the Application Report in support of the application to this court for the orders, she confirmed that it had been prepared before the curator had been appointed or had reported. She accepted that the respondents had come up to Scotland in October 2016 because the second respondent's mother was terminally ill. She was also criticised on the basis that she was not explicit that the respondents did not leave the hospital until after the interim order had been served on them. She referred to the respondents' opportunity to go to the nursery to visit the child where it had been taken after birth. It was put to her that the

respondents had not been told that they could do this, but she had no knowledge of this matter.

[207] Debbie Adamson's use and understanding of the information in the police report supplied by Gloucestershire social services, as reflected in her report, was challenged. In relation to the allegation of domestic abuse or violence it was put to her that there was a single complainer who had withdrawn this complaint and that that was the only information provided by the police where there was specific reference to such behaviour by the second respondent. Debbie Adamson explained that this information came from Gloucestershire social services but it was her understanding that there was information about the second respondent's violent behaviour against other women as well. It was her understanding that this related to more than one former partner. She accepted this was not in the police report but she was aware of previous concerns about his behaviour. She qualified her evidence to state that she was referring to concerns about the second respondent's behaviour and not charges. She confirmed she had never spoken to the second respondent about his past relationships.

[208] She was also challenged that her reference to "a variety of convictions" was not correct, given that he had only two convictions (one was for possession and one for driving under the influence) but she replied she had written what she had written. (It should be noted that she struggled to distinguish between a conviction and a charge and was ultimately driven to accept, grudgingly, that this part of her report was "slightly misleading".)

[209] In respect of the first respondent's age when she met the second respondent, it was put to her that the first respondent was 16. Debbie Adamson said the information she included in the report came from papers held by the social work department. She was

challenged as to whether or not she had ever enquired about this with the second respondent but she explained she had tried to meet with him and he would not meet with her. She was also challenged that Catherine Stewart had, at least, assessed as a "positive" that the respondents had been in a relationship together for some time, but Debbie Adamson would not accept or characterise this as a "positive". Under reference to the Harbouring Order against the second respondent in England in relation to the first respondent, and the fact that this was in practical terms superseded by the establishment of the respondents' relationship, Debbie Adamson cavilled in her evidence and declined to acknowledge that Gloucestershire social services had assessed this relationship as a positive. She ultimately accepted that her reference to the Harbouring Order was outdated. She also accepted that as at July 2017 the second respondent was getting support for his mental health issues.

[210] In relation to the question of alternative or kinship carers, Debbie Adamson confirmed that this had been explored before the case had been transferred to her. It was her understanding that Kerry Parsons had considered this with some members of the second respondent's family, who had initially been supportive prior to the birth of the child. However, shortly thereafter the second respondent fell out with his family and they withdrew their support. It was the second respondent's position that it would be difficult for his family. So far as she was aware, this position continued after the birth of the child. She accepted that she carried out no work herself on the question of alternative or kinship carers. She explained no one had approached the petitioners' social work department and, looking at his previous relationships with his own extended family, there was no one suitable from the family of either the first or second respondents. She was challenged that overall her report was not balanced, at least in respect of her assertion that the second respondent had demanded that his mobile number be removed from social work records

without also recording that six days later he had provided it. She appeared to accept this. It was put to her that there was no correspondence to indicate that the respondents had been invited to a meeting on 7 July 2017, but Debbie Adamson was not aware that no letter was in the file.

[211] She was also challenged about her observation of the respondents' failure to attend the Looked After Child review on 20 July 2017 because the second respondent had told her in advance that he wouldn't be attending and he had provided a reason, namely his father's illness. Debbie Adamson cavilled and replied that the second respondent had told her he would attend the Children's Hearing but he hadn't. It was put to her that it would have been more balanced to note that the second respondent had provided a reason for not attending one of the Looked After Child reviews, but she maintained that her report was about the respondents' failing to discharge their parental responsibilities towards the child. This was more important than something concerning the second respondents' parent. She accepted that she did not offer to rearrange that meeting. Ultimately, her position was to stand by what she had written in the Application Report.

[212] Finally, it was put to her that the delay between the decision to seek a permanence order and the raising of these proceedings six months later was prejudicial to the respondents. Debbie Adamson did not accept this, explaining the respondents had had ample opportunity to oppose the CSO with the condition of no contact and had had ample opportunities to meet with the petitioners' social work department. If they had engaged it might have been a different story, but they had not.

Re-examination

[213] In response to a series of questions Debbie Adamson confirmed that she had had regard to the parenting assessments carried out by Gloucestershire social services; that she had no reason to disregard these on the basis of what she had learned of the respondents and she had no basis to conclude that concerns about the respondents' non-engagement were no longer applicable. She also confirmed that in order to conduct a parenting assessment, she required a parenting contract to be entered into by the respondents. She also confirmed the materials she had had available to her at the time she prepared the Application Report, and also for the purposes of her meeting with Dr Edward. She did not recall word for word what she had told Dr Edward in that meeting. She also confirmed that matters could have progressed a little more quickly, if the respondents had themselves returned the schedules but, in the absence of which, she had had to wait for 28 days to expire before the next step could be taken on the road to permanence.

Tom Bochenek

Affidavit

[214] Mr Bochenek had been employed by the petitioners for 20 years. At the material time he was the Team Manager with the petitioners' Children and Families team. As Team Manager, he had responsibility for all case practices including initial family assessment, safeguarding and supporting children at home and in kinship care, child protection issues and support for looked after children. In common with the petitioners' other witnesses, he endeavoured in his affidavit to cover minutes of meetings and other documents not within his own direct knowledge. Accordingly, I record only his evidence if he had direct involvement or exercised professional oversight and judgement, if there was significant

cross-examination, or if the subject matter of his evidence is material to the issue for this court.

[215] The following matters from his affidavit are to be noted:

1) He explained that the petitioners' main responsibility was to safeguard the welfare of children and to take necessary and proportionate actions to protect them when there were significant risks of harm. Accordingly, this involved rehabilitation of children and working with parents to that end. He gave an example of having worked with two other families who had also come from England and where the children were rehabilitated to their parents. This was because the parents of these other children showed a high degree of motivation to change, to address concerns and to work consistently with all of the professionals to improve the outcomes for their children. This was not the case with the respondents, whom he described as showing no motivation to change or to address legitimate child protection concerns. Rather, in his view they demonstrated reluctance and an unwillingness to engage. They dismissed any concerns or advice given to them. The respondents never gave any indication of a willingness to change or address legitimate concerns.

2) From his own observations he regarded the second respondent as having a "decisive voice" in the respondents' relationship and it was the second respondent who determined the degree to which professionals would be allowed access to and involvement with him and the first respondent. The second respondent would disengage and would become obstructive. He did not accept the concerns or advice of professionals. These features caused him surprise that the curator sought only the respondents' view. In his view, there was never any

indication that the respondents would work with either social work or health professionals. They simply insisted that everyone else "got it wrong". He explained that the petitioners would have supported the respondents if they had permitted this, but their non-cooperation made this impossible. The focus of the petitioners' efforts was to safeguard the welfare of the unborn baby in the context of a high level of parental non-engagement.

3) What he observed, which was consistent with what other social workers had reported, was that the second respondent took the lead and the first respondent would follow. He acknowledged, as noted at the Review Child Protection Case Conference on 8 February 2017, the first respondent did not appear afraid of the second respondent. He described the second respondent as preoccupied with himself.

4) The second respondent phoned him on 25 January 2017 to report that he had been subject to a data protection breach. Mr Bochenek advised the second respondent to speak to a solicitor. The second respondent also complained about the social work department. Mr Bochenek arranged a meeting with the respondents to address his complaint. He and another Team Manager, Tracey Burke, attended at the respondents' home on 1 February 2017. At that meeting, Mr Bochenek shared the plans about the unborn child, which included alerting an ambulance if the first respondent went into labour. The plan had been detailed in the minutes of the core group meeting on 19 January 2017, a copy of which had been provided to the respondents. Indeed, the second respondent was unhappy with it and had referred to it at the meeting on 1 February. It was agreed that other social workers would undertake child

protection visits but Kerry Parsons retained case management responsibility. He never had any concerns about Kerry Parsons' handling of the case.

5) Turning to the issue of the petitioners having sought a condition of no contact at the outset, in his view this was not oppressive. It was regarded as appropriate, given the history in England, the petitioners' own assessment of the situation and the failure of engagement on the part of the respondents. Up to this point, there had been a "high level of non-engagement" with and, at times, obstruction of, social work and health professionals. The respondents ignored the needs of the unborn baby, ie the child, or for consistent ante-natal care. Furthermore, by reason of the evidence that the respondents were unable to focus on the child but just on each other, it was regarded as harmful to permit any level of contact from birth. Had contact been permitted, which would have required the oversight of social work staff, this would have had to have been managed extremely carefully with a high level of supervision to minimise any potentially harmful impact on the child. He described it as a "volatile" situation. In his view it could have been harmful even to a newborn child, to be exposed to hostility and aggression such as had been shown by the respondents towards social workers. Furthermore, it would not have been appropriate to ask a foster carer to supervise contact, given the level of animosity exhibited previously. Mr Bochenek also explained that he thought it unlikely that the respondents would engage in contact. The second respondent had indicated at the time that he had a solicitor and would challenge the petitioners. He accepted that, of course, it was open to the second respondent to do so but no challenge ever materialised. In his view, the whole process had been open to scrutiny and was transparent. He would have preferred the

respondents to have attended the Children's Hearings, preferably with their solicitors to state their position. This was not because the petitioners' decision was wrong, but because it was in the interests of the child to have important matters fully canvassed at these hearings.

6) He responded to the suggestion that the petitioners had determined the child's future without assessing the respondents as parents. He explained that the respondents did not engage and it was not possible to carry out assessments. In his view, every opportunity had been offered to the respondents but all of the petitioners' efforts were obstructed. The petitioners had based their decisions on other information, which included the recent parenting assessments by Gloucestershire social services. On the basis of that information, and what it disclosed about the older sibling, it was felt that the respondents could not safely care for the child. He confirmed that if the respondents had indicated a willingness to engage at any stage, the petitioners would have attempted an assessment. In his view, where parents do not engage or accept advice, then it could be inferred that once they had a child, these failures would be likely to continue and would put a child, particularly a baby, at risk of serious harm.

7) He described this as the "worst case" he had ever known of non-engagement by parents. He and other social workers had dealt with parents who were violent or who had significant substance abuse but always had shown some level of engagement. The respondents gave nothing. Their complaints against the social work department were always about how the respondents were affected. So far as he could recall, the respondents never suggested that the petitioners' decisions had adversely affected the child's interest.

8) He confirmed that there were no other family members who could care for the child. The petitioners were mindful of the terms of Article 8 of the European Convention of Human Rights ("the ECHR"), among other legal requirements. The petitioners considered placement of the child with its full sibling, namely the older sibling, would give it the opportunity of a positive family life.

9) While the case had been transferred to the petitioners' permanence mentoring team on 27 March 2017, Mr Bochenek confirmed that this did not mean that the petitioners had decided to seek permanence or adoption as an outcome. This was because the permanence mentoring team would continue to keep the case under review. Unfortunately, the opportunity for rehabilitation was minimal, given the respondents' non-engagement and hostility. The petitioners wished to ensure the appropriate outcome for the child without harmful delay and he believed this was in the best interests of the child. He had no further involvement in the case after this point. He ceased to be a Team Manager on 30 April and shortly thereafter he became the Independent Chair of the Permanence Panel of the petitioners in May 2017.

Examination in chief

[216] He adopted his affidavit. He confirmed that the terms of Dr Petrie's diagnosis did not cause him to change his view of the petitioners' conduct of the case.

[217] He responded to the following passages put to him from the first respondent's affidavit:

1) While the respondents maintain that they had not concealed that the first respondent was expecting the child, Mr Bochenek explained that this information

had come from Gloucestershire social services because the first respondent's pregnancy had initially been concealed from them. It was not concealed from the petitioners because they were aware the first respondent was expecting when the respondents came to their attention.

2) He rejected the contention that the petitioners' social work department offered no assistance with a home-birth. He was aware of a number of attempts by the midwife and social workers to gain access to the respondents' flat in order to assess its suitability for a home-birth. The second respondent had been categorical that no midwife would be allowed into the property. Significant concerns remained by reason of the premature birth of the older sibling.

3) In relation to the contention that the petitioners had done nothing to facilitate contact by the respondents with the child, he referred essentially to the same information he provided in his affidavit, noted above, about the reasons why a condition of no contact was sought from birth as part of the interim orders. Furthermore, the respondents had been told that they could appeal but they had not. They did not attend the subsequent hearings. It would not have been permissible for the petitioners to take no steps and to wait and see if the parents would engage with them. The focus must be on the protection and the interests of the child. The child could not be left in a vacuum to await the respondents. In his view, the non-engagement on the part of the respondents was not very different from how they had conducted themselves in England. At every stage the petitioners had advised the respondents to get legal advice. In his experience parents usually did and would arrange for legal representation at the second working day hearing.

4) Under reference to paragraph 20 of the first respondent's affidavit, he was absolutely satisfied that it was necessary to obtain the interim child protection orders to protect the child. There had been a significant period of non-engagement by the parents prior to the birth of the child; it was likely that there would have been the same refusal of access by social workers after its birth. This had also been the conclusion Gloucestershire social services reached in June 2016. Between that date and early 2017, the date of the child's birth, there was nothing to indicate that any change in behaviour on the part of the respondents had occurred. The petitioners needed to see a capacity or willingness to change but this had not been demonstrated.

[218] He also responded to a number of passages in the second respondent's affidavit, as follows:

1) In relation to whether the police stopped the ambulance carrying the first respondent to hospital, Mr Bochenek explained that, as the respondents had indicated they would refuse to go to hospital, part of the protection plan was for the police to be called if it became known that the first respondent went into labour. (He was unclear in his evidence as to whether the ambulance had in fact been stopped.)

2) The contention that the petitioners offered no support was repeated in the second respondent's affidavit, and Mr Bochenek essentially gave the same answer. The petitioners had put in a lot of support but had encountered significant difficulties regarding engagement. In respect of the second respondent's complaint about references to his mental health, Mr Bochenek explained it would not have been possible to leave this out of consideration. It was part of the whole

circumstances. The second respondent presented the petitioners with the situation that he would not allow the petitioners to offer any support. The respondents had had a distrustful attitude towards the social workers, in England as well as in Scotland, and they did not believe that anything required to be addressed. They denied any concerns. They had repeatedly stated that they would have nothing to do with the social workers. The only way forward was to see if the respondents would respond to the legal process. As for the first respondent leaving the hospital after labour, without being medically checked, the concern had been that the first respondent had a tear and might require stitches. In addition, it was important to have a welfare check for the first respondent but she left the hospital before this could be undertaken.

3) He confirmed it was uncommon for a Team Manager, such as himself, to make a home visit.

Cross-examination on behalf of the first respondent

[219] Mr Bochenek was asked if he was aware that the first respondent may have been depressed before and after the child's birth. He stated that he was aware there were mental health issues in relation to the first respondent, in terms of depression and low mood. Gloucestershire social services had offered support in the form of specialist nurses and a psychologist but the first respondent did not engage with them. In terms of Dr Petrie's retrospective diagnosis of post-natal depression, Mr Bochenek confirmed that the petitioners did not have a formal diagnosis in those terms, but the first respondent had had a high level of support during her pregnancy. Her ante-natal care was consultant-led but she did not engage with this or with post-natal support. The petitioners were aware of the first

respondent's vulnerability but she did not engage with any mental health services provided. He did not accept that the formal diagnosis of post-natal depression should have altered the petitioners' approach. He did not see what more the petitioners could have done. He was pressed that, as the petitioners had known, they ought to have taken a diagnosis of post-natal depression into account in their assessment. Mr Bochenek maintained that the petitioners had taken into account the first respondent's vulnerabilities, but if she took no steps to address this, that would affect her parenting capacity. In other words, it demonstrated the first respondent was not seeking support when she should have. The petitioners would have offered support but they must be allowed to be in a position to offer it. He was pressed as to whether the petitioners should have investigated the possibility that the first respondent was suffering from post-natal depression after the birth of the older sibling, given that there was some reference to this in Catherine Stewart's report. Mr Bochenek resisted this. They were aware of mental health difficulties but the first respondent simply would not engage.

[220] He was challenged on the petitioners' perception that the respondents had "fled" from Gloucestershire to Fife, whereas their position was that they had to travel north due to the illness of a close family member. Mr Bochenek confirmed that this was the nature of the information first received from Gloucestershire social services. The first respondent was a looked after child. She had not advised that she was moving elsewhere, and had gone missing. As to whether the respondents did in fact disclose that they were expecting a second child, it was his understanding that it was only initially that the respondents had not disclosed this to Gloucestershire social services.

[221] He was also challenged on the basis that there was a degree of engagement when the respondents first met with the petitioners' social workers. He accepted this only in relation

to the first three visits but things changed once Kerry Parsons advised the respondents of the petitioners' plan that the child be removed from birth.

[222] He was asked a number of questions about his meeting with the respondents on 1 February 2017. Most of the communication was done by the second respondent. The first respondent did not say a lot. There was no hostility. It was, in his view, a frank discussion and the second respondent indicated what he disagreed with. He readily acknowledged that he could see the respondents were taking steps to prepare for the child's birth, namely items of baby equipment. He had recorded this in his report of the meeting. He had agreed that the midwife would attend to assess the suitability of the respondents' flat for a home-birth but, soon after the meeting, the respondents refused further access. He remained of the view that the second respondent would not cooperate. The second respondent did not accept any concerns the petitioners raised. As he understood matters, by the end of the meeting the second respondent accepted that he would permit social workers to attend and that social workers other than Kerry Parsons would undertake the child protection visits thereafter.

[223] He was also challenged that, notwithstanding his agreement at the meeting for assessment of the respondents' flat for the purposes of a home-birth, on the same date health professionals had advised that they would not permit a home-birth. He explained that the health professionals had come to a view that, following previous meetings, they did not consider it safe for staff and had taken the decision it would not be right to expose them to a home-birth. In his view, it was a matter of speculation as to whether the health professionals would have allowed a home-birth, had they ever been permitted access to assess the respondents' home. He inferred this from the fact that the respondents did not engage with ante-natal appointments. He explained that it was necessary to have

involvement by health professionals because the respondents had a very limited understanding of what a home-birth would involve. He was trying to find some kind of solution but the respondents were not ready to cooperate. It was put to him that the respondents could not be blamed if the health professionals said "no", but Mr Bochenek countered that from 8 February 2017 the respondents did not permit them access. Social workers were not given access and they had to resort to peeking through the window to check on the first respondent. After his visit on 1 February, three visits had been allowed but thereafter all access or contact ceased. The respondents moved away quickly from any cooperation shown at the meeting on 1 February 2017 with him. All of this raised issues of safety by reason of the respondents' lack of cooperation.

[224] He confirmed that he had no concerns about the condition of the respondents' home, though it was sparsely furnished. However, this did not change the petitioners' fundamental concerns about welfare issues in relation to the unborn child.

[225] He was next cross-examined about passages from the curator's report. He confirmed his "astonishment" that the curator chose to meet only with the respondents and did not meet with anyone from the petitioners' social work department. He would have expected the curator to have done this in order to find out the situation about the child. Nor did the curator ask the respondents why they did not seek legal redress or access to their child. In his view, the petitioners had been entirely transparent throughout in their dealings with the respondents. He also strongly disagreed with the curator's conclusions. If one took into account the significant parental non-engagement and the other concerns, the petitioners' actions were, in his view, entirely justified. The child was at significant risk unless the petitioners took the steps that they did. In relation to the curator's comments about the implication of what the petitioners had done for the respondents' Article 8 rights,

Mr Bochenek maintained that the parents knew from the start what the outcome of the petitioners' deliberations were and they had copies of minutes of meetings.

[226] In relation to the nature of the relationship between the respondents, Mr Bochenek stood by the description of this as a "controlling" one. At the very least, the second respondent exercised a very great deal of influence over the first respondent. He always did the talking. The first respondent often did not want to speak and the second respondent had to persuade her to do so. During his one meeting with them, the first respondent had spoken on only a few instances. Further, the first respondent often sought permission from the second respondent before she engaged with certain forms of support. This character of the respondents' relationship reflected what had been observed by Gloucestershire social services. That pattern appeared to be repeated here. He remained of the view that the second respondent had a decisive role in the parties' relationship. The first respondent would not do something if the second respondent was not in agreement. He was challenged on the basis that he could not have perceived this from the single meeting he had, but his evidence was that at that meeting the first respondent spoke only a few times.

[227] He resisted the suggestion that he should have considered changing the social worker, Kerry Parsons, before 1 February 2017. She had a good understanding of the case and there was no need to change. He was pressed on this but his consistent answer was that the non-engagement was on the part of the parents, not the social work department. As a manager, he had an overview and the sense he had reflected what Gloucestershire social services had found. The second respondent was clearly the spokesperson for the respondents. There had been a pattern of non-engagement in England and this continued in Scotland. He referred to a text from the first respondent where she stated she didn't want anything to do with "stupid meetings". (See para [40] of Appendix 1.) He regarded as

significant that she did not want to be involved. The petitioners' concern was the health and safety of the child. He rejected the suggestion that this concern would disappear upon the safe birth of the child. The Gloucestershire social services parenting assessments remained relevant; these were recent and covered the respondents' ability to care for the child. While there were glimpses of engagement, overall the pattern was of non-engagement. There were issues about the ability to provide for the child's basic needs and so social work remained involved.

[228] He was unable to comment on what had transpired at the hospital after the birth of the child. He supported the decision to seek a condition of no contact. This had been taken in consultation with the social worker, Kerry Parsons, and her manager. This was part of the multi-agency plan, which involved input from senior management. He was pressed repeatedly on this. At this stage, ie at the birth of the child, he maintained that this was the appropriate course having regard to the level of risk and the respondents' non-engagement. The interim orders were temporary and could be revisited at any stage of the process. The respondents could challenge this. In his experience, quite often these interim orders were changed. This did not happen in this case.

[229] The terms of his email of 4 May 2018 were put to him. After having received the curator's report he had emailed Debbie Adamson and stated that, perhaps, "[in] retrospect it may have been better to have had some contact condition in the original CPO as this would offer so much additional evidence as they would not have engaged with any contact…" He did not accept that it was inappropriate for him to be contacting Debbie Adamson, who would be a witness in these proceedings. Nor did he accept that his comment was inappropriate. He stood by what he stated in his affidavit. His understanding at the time, based on the information then available to him, was that contact would not work. That

remained his view. He rejected as hypothetical the proposition that there could have been supervised contact. At least two members of staff would be required but it also required some indication on the part of the respondents that they wished contact. There was no evidence of this. They never engaged with the Children's Hearings. He was challenged on the basis that the first respondent had never been contacted directly or asked to attend for a parenting assessment. In his view, however, support had been offered to both respondents. Once the first respondent ceased to be a looked after child, upon turning 18, she wanted nothing more to do with social work. There was no evidence of engagement.

Cross examination on behalf of the second respondent

[230] In response to a series of questions, Tom Bochenek confirmed the differences between interim protection measures and a permanence order. He accepted that a condition of no contact was unusual, but maintained that this was appropriately sought on the information available. This was reviewed at the second and eighth working day hearings. The respondents did not avail themselves of the different forms of appeals open to them. He was challenged that engagement was a two-way process. It was put to him that Kerry Parsons had repeatedly referred to the allegation of sexual assault of a young relative with the consequence that the second respondent did not feel he was getting a fair hearing from social workers. Tom Bochenek's answer was that this was included in the police information passed to the petitioners as part of the child protection process. While it was an allegation of some vintage and not taken further, he maintained that, consistent with guidance on such things, it was necessary to provide information about all concerns. He fell back to the position, that if the respondents had disagreed they could have come to meetings and voiced their opinions. This would have been recorded. But the respondents did not

ever attend. In his experience, the second respondent disagreed with everything. Tom Bochenek was pressed on another inaccuracy in the papers, namely, that the child had been on the child protection register in Gloucestershire at the time the respondents came to Fife. (The child was not on the child protection register in Gloucestershire on 18 October 2016.) It was put to him that if the petitioners' reports shared with the respondents contained inaccuracies, the respondents would find it difficult to work with them. He accepted that if there were inaccuracies, these would need to be corrected. His intention in meeting with the respondents on 1 February 2017 had been to resolve all the issues.

[231] He was asked whether, when social workers saw evidence of the respondents preparing for the birth of the child, the respondents should have been contacted as they clearly did not understand that the petitioners' plan was removal of the child from birth. The witness explained that the respondents had repeatedly been told to get legal advice. The second respondent repeatedly stated that he had obtained advice. Even though the interim child protection order was obtained *ex parte*, the respondents could have been represented by a solicitor. It remained the case that the sheriff granting such orders would interrogate the information and not just sign the paper. He was challenged on certain observations in an internal memo about the second respondent's mental health, but he was of the view that the requirements for a compulsory treatment order in respect of the second respondent would not have been met. He was simply expressing his opinion in that documentation. He knew the second respondent had mental health issues, he mentioned these, but he was also aware that the second respondent disputed the diagnosis.

[232] He confirmed that after his visit to the respondents on 1 February 2017, he did not think there was an imminent risk of the respondents fleeing. He was challenged about the number of child protection visits undertaken, and to the fact that these were on more than a

weekly basis. The witness explained that a weekly visit was a minimum and, in any event, some of these meetings had been to provide the respondents with other help, such as bus passes for them to attend medical appointments.

[233] Passages from the minutes of the child protection review case conference held on 8 February 2017 were put to him. He confirmed that much of this information came from Gloucestershire social services. The petitioners had endeavoured to confirm the correctness of this information, consistent with best practice. He was challenged on the observation that the second respondent was not seeking support for his mental health. He explained his understanding of the investigations undertaken by Kerry Parsons with the second respondent's GP at an early stage. He understood that the second respondent decided himself what medication to use, which was not what was prescribed.

[234] He was challenged about some of the matters included in the list of concerns presented to the sheriff court for the purposes of obtaining the interim child protection order at birth. It was his understanding that the information in the report was correct. The petitioners' social workers put in the information they regarded as significant. He maintained that the petitioners had been transparent in their dealings. He ultimately accepted other information could have been included or clarified. He was unable to comment on the consequences of this for the second respondent. He maintained that the respondents could have appealed these orders but failed to do so. It was open to them to challenge the basis for the interim orders. He was unable to comment on the proposition that any report would have balanced Gloucestershire social services' observations about the uninhabitable state of the flat in England with the observations about the flat in Fife, as he had visited the flat only once.

[235] In relation to the steps taken after the birth of the child, it was put to him the petitioners did not have an open mind. The child had been born after the middle of February, but the respondents had determined by 17 March to proceed with permanence. The petitioners had not visited the respondents thereafter, but the witness referred to Kerry Parsons' attempts to do so. He would have expected the respondents to engage; to make a legal approach and to participate in meetings. They didn't. They did not attend any of the meetings, whether the second or eighth working day hearings or the 72 hour meeting. He resisted the suggestion that it was common for parents to miss such meetings. In his view, generally parents did attend these meetings and did so because what they felt it was important for the child. That was not the case here.

[236] Further questions were posed about some of the entries in relation to the second respondent being historic or disputed by him. It was suggested that the second respondent was understandably angry about these matters. Tom Bochenek maintained that relevant information required to be in such reports.

[237] It was put to him that in December 2016 the prospective adoptive parents had been approached and they had confirmed by mid-December that they were interested. The witness maintained that the petitioners were simply exploring options, including the child being with its full sibling (ie the older sibling) and these were all just part of the discussions. He was not involved after March 2017 but his understanding was that nothing was determined by then. He was also challenged on his observation in his affidavit, that for the second respondent it was "all about him". He adhered to this observation, noting that the second respondent focused on his own needs. He was more concerned about how the actions of the social work department impacted on him and his privacy. This was why he denied access. He accepted he had only had one meeting with the respondents but, as the

social work team manager, he had information from other social workers and professionals which he took into account.

[238] He did not disagree with the proposition that there had been only two missed attempts for child protection visits up to December 2016. He could not comment on other matters, such as whether the second respondent had been intimidated by one of the social workers, as he had not been present on the occasion referred to.

[239] In relation to alternatives to a permanence order, he explained the need to look at family members but in that case there was no one suitable. For example, the second respondent's sister did not have the care of her own children. They had considered extended family members. There were also issues with the first respondent's family. There were difficulties between the first respondent and some of her family members. None would be in a position to assist. Other children had been removed from her family. They had looked at the information available to them. There were no suitable alternatives. Kinship assessments were not undertaken, because from information sometimes one could take a view (as here) that there was no one suitable. In this case, there was a chance that the child could be with its sibling and that was a significant relationship. Finally, he rejected the suggestion that the petitioners had delayed. In his view, the petitioners could not wait around for the parents to make changes or to move to a point where it might have been appropriate for them to have contact with the child. The decision was to plan for permanence, although this could have changed had circumstances merited it.

Re-examination

[240] He confirmed in re-examination that he was aware at the material time of the first respondent's history of depression.

Lesley Stevenson

Affidavit

[241] Lesley Stevenson became involved in March 2017, following referral to the permanence mentoring services of which she was a team manager. In that capacity she had little, if any, direct interactions with the respondents. She exercised oversight over Debbie Adamson. Much of her affidavit was based on file notes and observations of other social workers, whose view she generally adopted. There is, therefore, little utility in recording all of her evidence, dependent as it was on the evidence of others. I therefore record only those parts of her evidence where she was speaking from first-hand knowledge or which involved the exercise of her own judgement. The essential parts of her affidavit, which she adopted, are as follows:

1) A plan for permanence was agreed and approved at the joint looked after child review/child protection case conference on 17 March 2017. As a consequence, the case was transferred to her own team. She explained that the permanence decision was taken at this stage due to the significant risks identified in terms of the history in Gloucestershire and the "complete lack of engagement throughout the ante-natal and post-natal period" with health and social work. She referred to Debbie Adamson's attempts to establish a working relationship with the respondents. In her view, had there been meaningful engagement, she would have considered the impact of reinstatement of contact on the child. However, in her view the respondents did not engage.
2) Her own role was to supervise Debbie Adamson and other staff every four weeks to confirm that all necessary steps and attempts were being made to engage with

the family. She explained that engagement from parents was "absolutely necessary" to allow ongoing assessment of the circumstances to establish if they could meet the needs of their own children. In the absence of parental engagement, there could not be a full parental assessment. This meant that the risks previously identified could not be addressed and she referred to the risks in this case as disclosed in the previous history and the respondents' failure to engage with any services. This seriously impaired any consideration of rehabilitation and, as she put it, the petitioners had no option but to consider accommodating the child away from home.

3) Her first contact with the respondents was on 13 July 2017. She became aware on that date that the second respondent had called the social work department. She spoke to him because he wanted to make a complaint. He asked for his telephone number to be removed from the petitioners' system because he did not wish any contact with social work. He requested that all correspondence should be directed to his solicitor. She removed his number. This was followed by an email from the first respondent, (as recorded in para [74] in Appendix 1).

4) She next referred to the meeting between the second respondent and Debbie Adamson on 19 July 2017. Of course, she was not present. She had no doubt that the second respondent would have found a conversation about the question of contact with the child difficult. She did not believe that it was in Debbie Adamson's style of practice to be aggressive.

5) Following the meeting on 19 July, Lesley Stevenson received a telephone call from the first respondent (see para [80(6)] in Appendix 1). The first respondent did not mention any confrontation between the second respondent and Debbie

Adamson. She explained that, in considering a request for contact, the whole picture would be looked at. She explained to the first respondent that she would discuss her request with Debbie Adamson. She did so. However, the decision was not to facilitate contact, given that there had been no contact for a period of five months. She explained that it would be unusual to offer a one-off contact in situations where a child had not had contact for a significant period of time. In this case, there had been no contact between the child and the respondents since its birth. She did not accept the first respondent's contention that she had not been given the opportunity for contact, given that 13 opportunities were offered to the respondents through formal and informal meetings to do so, but these were not taken up.

6) She explained in more detail that she did not believe a one-off contact would be in the child's best interest. This request was more about satisfying the parents' need than those of the child. There had been only one contact between Debbie Adamson and the second respondent, and no contact by her with the first respondent. She also noted that since the first respondent's request for contact in July 2017, there had been five opportunities for the respondents to meet to discuss the child's situation (including a looked after child review on 28 July 2017 and Children's Hearings on 20 July and 2 November 2017), but these had not been taken up.

7) Lesley Stevenson reflected on the consequence of the respondents' failure to attend or be represented at the hearings, especially the early hearings, relating to the child. In her view, had they attended the second day hearing, the petitioners' social workers and the panel itself would have had to consider any request for

contact made at that time. In her view, had the respondents attended meetings and asked for contact she expected that this would have happened, subject to review procedures. There would have been robust and ongoing assessment concerning contact and this would have informed decision-making about contact in the long term. There might have been supervised contact. In her view, had the respondents engaged in this way, a positive decision on contact would have been "likely". There was no blanket opposition to contact. She did not understand the respondents ever to ask to resume the care of the child or to state that they were willing to work with the social work department to facilitate an assessment of the current circumstances for that purpose. While a condition of no contact was very unusual, the case was unusual because of the lack of opportunity to assess the current situation of both respondents. In her view, the petitioners would have been prepared to consider this. At no time had the first respondent requested ongoing contact. In her interpretation of the first respondent's call on 19 July 2017, she was asking simply for one-off contact in the event the child was adopted. Furthermore, the second respondent only asked for contact on one occasion and this was at a meeting with Debbie Adamson on 19 July 2017. She described the five-month period after the child's birth as one where there was no possibility of assessing the respondents' circumstances. All attempts to do so were frustrated by reason of the respondents' failure to engage in any meaningful way.

8) In relation to the hostility exhibited by the respondents, this could be managed but there was no opportunity to assess how this could be managed during any contact with the child.

9) Speaking more generally, in her view social workers were fully trained and treated all cases with an open mind. Circumstances do change and social workers look at all cases on their merits. The history is taken into consideration but only as part of the whole picture. In her view this approach had been taken in this case. Even if a case appeared to have travelled in a certain direction, there was continual review and if circumstances had changed, the petitioners would have considered this. Here, circumstances had not changed or, if they had, the respondents' failure to communicate meant that the petitioners were unaware of this.

10) Finally, she expressed the view that it would be seriously detrimental for the child to reside with the respondents. As at the date of her affidavit (in mid-May 2018), the child was 15 months old. It was living with its full sibling and was thriving in the care of the prospective adoptive parents. The child had made the original transition well and was developing good attachments to its prospective adoptive parents and to the older sibling. It was becoming absorbed into its family and enjoyed the fullest relationship with them. She was aware of all of this, because she supervised the social worker who visited the child and its prospective adoptive family on a monthly basis. Any prospect of contact between the child and the respondents would require the child to be re-parented. There was nothing to indicate that either of the respondents could parent the child. It was not appropriate for the child to remain as a looked after child for the long-term. She explained that for children kept within the care system as looked after children there can be a stigma, because social work professionals make decisions in relation to them rather than parents. She

described this as a constant reminder that they are different from their peer groups and in the case of the child, it would remind it that it was being treated differently from its older sibling. She expressed this view in the light of her 30 years' experience of working with children in the care system.

Examination in chief

[242] Dr Petrie's diagnosis of post-natal depression was put to Lesley Stevenson, who confirmed that she was aware that the first respondent had a history of depression and post-natal depression, and that this had been taken into account. In common with the other witnesses in the petitioners' social work department, she would not have done anything differently in light of this diagnosis. She explained that when they considered moving children, the petitioners always took into account mental health issues. It did not matter whether there was a specific label, because, in her view, "huge" efforts had been used to try to engage with the respondents.

[243] Passages from the first respondent's affidavit were put to her to comment, as follows:

1) She rejected the first respondent's contention that she had not been helped. She was aware that an interim child protection order had been granted with a condition of no contact. This would have been reviewed at the second day hearing and at subsequent Children's Hearings where contact would have been discussed and arrangements made, if contact were to go ahead. The first respondent did not attend any of these meetings or ask for contact at that point. She said there was no engagement whatsoever and, in her view, nothing more reasonably could have been done to facilitate contact, given the level of non-engagement. It was very unusual to have no contact for such a length of

time, but attempts were made to have discussions regarding the child's care and these would have included contact had these discussions taken place.

2) In relation to the first respondent's contention that she was "not given a chance" to demonstrate parenting capacity, Lesley Stevenson explained that there was no opportunity to assess the first respondent. Given the history where the first respondent had had a child removed, there was a need to look at current circumstances to assess the respondents' capacity to meet the needs of the child. The petitioners were not given the opportunity to do that with the respondents. It was not possible for the petitioners to keep matters "on hold". There were continuing attempts to engage with the family.

[244] Certain passages in the second respondent's affidavit were also put to her, namely:

1) In respect of the second respondent's criticisms, social workers were trained to make and build working relationships with parents in very difficult circumstances. Huge effort had been made to engage with the second respondent. Other social workers were employed to visit the respondents because of their view of Kerry Parsons. Nor was it correct that the second respondent was "not given any support", as attempts were made to give the family support. If they had engaged there would have been a range of supports to be considered. These would have included parenting support services. Barnardos offer a range of services. There were also teen services and a local nursery in the area that offered a range of services to parents. However, parents could not be forced to engage with a local authority in the child protection process. She also explained that if the respondents' engagement with the local authority were the problem, there were third sector and voluntary organisations

that would have been available if there had been any level of engagement by the respondents with the petitioners.

2) In relation to the comment that the petitioners had not visited the respondents between the child's birth and July 2017, Lesley Stevenson noted that there were letters advising of appointments but the respondents did not attend. The first contact after the child's birth was when the second respondent attended a meeting with Debbie Adamson in July 2017.

3) As for the second respondent's suggestion that there were other family members who could have been alternative carers, Lesley Stevenson was not aware of this information. It was her understanding that all known relatives were considered and found not to be suitable for care of the child. Nor did she agree with the second respondent's comment that the petitioners did not want the respondents to have care of the child. In her view, social workers were prevented due to the lack of engagement from making any of the assessments they would normally make and which would have fed into the planning for the child. Such assessments would have led to the planning being reconsidered.

Cross-examination on behalf of the first respondent

[245] She accepted that her involvement dated only from March 2017 and that her information prior to that date was largely from departmental records, although she explained that she had met with Debbie Adamson and discussed the case with her. She had also managed Debbie Adamson during her involvement.

[246] She was aware of home visits in November and December 2016, but she explained that the level of engagement was not what was needed to progress an assessment of the

situation. She accepted there had been some visits at that time; she had read the file notes. She did not accept the characterisation of this as a "high level of engagement"; there were discussions. It was quite unusual for somebody of the seniority of Tom Bochenek to become involved to discuss the plan for a child. It was put to her that this was "quite important engagement" by the first respondent. Lesley Stevenson did not accept this. While the first respondent had met with social workers on that occasion (ie on 1 February 2017) there was no commitment to engage with ongoing work or assessment. When pressed she maintained her position, stating that there was a difference between ongoing engagement working towards a plan and having a meeting with two senior managers at the respondents' flat. It was put to her that the first respondent's depression could explain this. Lesley Stevenson did not accept this. People could suffer from depression but find ways to engage to work through that and to build up a working relationship. While she was not involved at this time, she understood that huge efforts were made with a variety of different social workers to take into account the respondents' views of Kerry Parsons and the different health workers involved. She did not understand the proposition (put to her) that there could be non-deliberate non-engagement. She did not accept that the petitioners were working towards their own agenda or that this justified the respondents disengaging.

[247] Under reference to a file note from 14 November 2016, she was challenged about Kerry Parsons' plan that the child be accommodated from birth. Lesley Stevenson accepted that while this had been Gloucestershire social services' intentions, the petitioners were not bound by this and they had made their own assessment. The practice was to engage with the family prior to the birth. She did not accept the characterisation of the petitioners' conduct as "draconian". She accepted that a condition of no contact was done only very rarely, but this included circumstances where the petitioners could not make a full

assessment of the situation. She accepted there was no suggestion of physical harm to the older sibling and no suggestion of a threat of physical harm to the child. Nonetheless, there were concerns about the first respondent's intention to have a home-birth and the possible impact of that. However, that was not the sole basis of the interim child protection order.

[248] A series of questions were posed to elicit the precise timing of the decision to promote a permanence order. She did not accept that the decision was taken at the meeting of 17 March 2017. There would be a plan at the time to move toward permanence. This involved future planning for the child but this was continually under review. The petitioners always looked at a family and any change in circumstances, and she gave the example of where there was a plan for adoption but children being rehabilitated to their birth parents.

[249] She confirmed that no parenting assessments were carried out by the petitioners. They were unable to do so because there was no meaningful engagement and therefore no demonstration that there were changes by the respondents. She resisted the suggestion that it was remiss on the part of the petitioners not to make a specific approach to suggest parenting assessments. While there was initially no contact with the child because of the condition to that effect, the respondents had opportunities to challenge that. Had they done so and contact been re-established, then this would have been an opportunity for a parenting assessment. She maintained that if the respondents had engaged at any point, the petitioners would have undertaken a parenting assessment. At the start, the condition of no contact would simply have subsisted for two days until the second working day hearing. In her view, if there had been any engagement on the part of the respondents at a later point, the petitioners would have offered supervised contact. There would have been a need to consider supervised contact and this would have to have been approved by the Children's

Hearing. If the respondents had turned up at these hearings or had engaged with the petitioners, the petitioners would have looked at supervised contact. There was no contact because there was no meaningful engagement on the part of the respondents.

[250] She was questioned under reference to her file note of the first respondent's call to her on 19 July 2017. (See para [80(6)] of Appendix 1.) It was put to her that the first respondent was not stating that she wanted nothing anymore to do with the petitioners, but simply that she had turned 18. Lesley Stevenson explained that the petitioners were not involved in the after-care for the first respondent. She was pressed several times to accept that the first respondent's request for photos in July 2017 demonstrated her being "interested" in the child or being concerned for it. She did not accept this characterisation. To be concerned suggested a strong interest and constituted more than asking for photographs. She was aware that Debbie Adamson had sent photos. Nor did she accept that the first respondent's request for one-off contact was demonstrative of the first respondent being concerned for the child.

[251] Under reference to the first respondent's email of 13 July 2017, Lesley Stevenson was challenged that the petitioners could have taken more steps. She explained that this would have been possible if the first respondent had attended meetings at that time and had conversations with Debbie Adamson. If the first respondent felt this was unfair, her opportunity to discuss this would have been at the meeting with Debbie Adamson on 19 July 2017 or at the Children's Hearing on 28 July 2017. Given the timing of the first respondent's request, the petitioners had to leave this for the imminent Children's Hearing. That was the opportunity to discuss contact and to challenge the petitioners' decision.

[252] She did report the first respondent's phone call to her (on 19 July 2017) to Debbie Adamson. Her understanding of the first respondent's position was that she was

unhappy but appeared to accept the outcome. She herself made no suggestion of contact one way or the other, as this was to be discussed at the Children's Hearing in a few days' time.

[253] Returning to the question of seeking a condition of no contact at birth, she was pressed that there was no justification for seeking this, if contact would have been a possibility following the second working day hearing. Lesley Stevenson did not accept this. The reason for a condition of no contact at birth was because there had been no discussion with the respondents by reason of their total non-engagement. However, if they had asked for contact at the second working day hearing, the petitioners would have been obliged to consider this.

[254] She was challenged on her observation that both of the respondents were "hostile". This was her impression. There had been minimal contact with Debbie Adamson and the second respondent had been hostile towards her in a telephone call. She accepted that there was no hostility evinced in any of the contacts she had had, although these were minimal contacts. It was put to her that this lack of hostility constituted a "big progression", but she did not accept this or that there was enough to enable work with the first respondent. She maintained that there had been 13 opportunities afforded to the respondents. In circumstances where a small child had not seen its parents for a long time, one-off contact was not in its interest. If there had been engagement, the petitioners could have worked with the respondents to build a relationship. She was challenged that after the first respondent's request for a one-off contact in July 2017, she had not been contacted thereafter. Again, Lesley Stevenson referred to the Children's Hearing that was due to take place a few days after that telephone request. She maintained that even a one-off contact was potentially unsettling to the child. She confirmed that her concern was due to the previous

history and the fact that there had been no subsequent assessments of the respondents. The respondents had denied the petitioners that opportunity and the concerns identified in respect of the respondents were never addressed.

Cross-examination on behalf of the second respondent

[255] Lesley Stevenson confirmed that removal of the child at birth with a condition of no contact was rare. She also confirmed that by the time there was a transfer to the permanence team, alternatives would have been considered, but the petitioners' staff kept cases under continual review. In this case, however, there was no opportunity to revisit the decision in about March 2017 to move to permanence because of the respondents' attitudes.

[256] In response to a series of questions about the petitioners' lack of contact between the birth of the child and the looked after child review on 17 March 2017, the witness could not comment as she was not team manager at the time. She did not accept that the description of non-engagement on the part of the second respondent during this period was therefore a partial or incomplete representation of the position. She did accept that this passage of her affidavit overstated matters. In any event, there were Children's Hearings taking place. These were opportunities for the respondents to meet with the social workers.

[257] The passage in her affidavit stating that the plan for permanence had been "approved" at the meeting on 17 March 2017 was put to her. She clarified that the people around the table at that meeting had agreed that permanence was the best way forward. She was challenged that, in effect, this decision was taken before Debbie Adamson had any contact with the respondents. Lesley Stevenson explained that while permanence was the plan agreed in March 2017, there would have been opportunities for that to be revisited. The petitioners were not the decision-takers in respect of permanence; there was a

permanence panel which was a recommending body which also had to sign off on this plan. She accepted that by this point the child was only about two months old. She also accepted that, as at 22 June 2017, Debbie Adamson had only attempted two visits with the respondents in March and in April 2017. It was put to her that three letters sent in three months after the birth of the child did not constitute "all necessary attempts" being made by the petitioners. Lesley Stevenson robustly rejected this. One had to look at the whole picture. Attempts had been made over a considerable period of time. Debbie Adamson had attempted three methods of contact, by letter, by phone and by attending at the respondents' flat.

[258] She also explained that, from the perspective of trying to assess the parents, there was not a significant difference between the child protection part of the process and the move to permanence. It still depended on the parents' engagement. If anything had changed after the decision to promote permanence, the petitioners would have revisited the plan. They had done so in other cases. The fact that permanence was being promoted did not preclude a change in the plan. She also explained that, in contrast to weekly meetings undertaken before the child's birth as part of the child protection process, these were not required because the child was in fact safe.

[259] She was then taken to the two letters, of 16 May and 19 June 2017, from the second respondent's agents. She had understood the May letter as the agents simply advising the petitioners of his position. At that time, she had not understood it as asking for anything more. In any event, however, by that point any change regarding contact required to be made through the Children's Hearing system. She steadfastly refused to accept that there was any failing on the part of the petitioners in not responding to this first letter at the time and not doing more in response to the second letter. She explained that there was an

ongoing process which included the Children's Hearings. Contact required to be pursued in that forum. There had been significant non-engagement on the part of the respondents. She did not accept that this constituted a missed opportunity, as the second respondent had every opportunity to attend the hearings. He could have phoned Debbie Adamson and asked to meet. She did not accept that letters from the second respondent's agents had been ignored.

[260] In relation to the second respondent's mental health, she accepted that he had a history of mental health issues, that he was vulnerable and that this impacted on his ability to function as an adult. She did observe that the second respondent had been able to put his views across. It was put to her that immediately after the child's birth, the respondents were struggling to come to terms with events as they had unfolded. She accepted that it was not unexpected for parents to be distressed by the removal of their children but, in her experience, parents will usually be keen to engage at some level and to know the plans for their children.

[261] Debbie Adamson's file note relating to her meeting with the second respondent on 19 July 2017 was put to her. Lesley Stevenson accepted the observations that the second respondent had presented well, that he exhibited no hostility on that occasion and that he was taking steps regarding his mental health. It was put to her that, notwithstanding this, Debbie Adamson would not support contact. She agreed with this approach, at that stage.

[262] She confirmed that alternative or kinship options would have been explored before the case was transferred to her and the permanence team. However, no further suggestions had come forward for consideration after that point. She was challenged that the petitioners' decision raised questions of "proportionality". Her reply was that the case raised questions of whether it was safe or not for the child.

Re-examination

[263] She confirmed that the visit by two team managers, including Tom Bochenek, to the respondents on 1 February 2017 was very unusual. The meeting was partly about the petitioners' plans and also the lack of meaningful engagement by the respondents. There had been hostility shown towards the social workers, who had to visit in pairs. A complaint had been made and this required to be investigated by team managers. In relation to questions about the absence of a specific request by the petitioners of the respondents to undertake parenting assessments, she explained that this did not matter because there was no meaningful engagement on the part of the respondents to work with the petitioners for that purpose.

Wendy Johnstone

Affidavit

[264] Wendy Johnstone was the midwife involved in this case. Much of her affidavit simply repeated the petitioners' social workers' perceptions of matters at the time. In particular, she reported her attendance at various meetings (eg the TCPCC, core group meetings etc) and what was discussed. This has been amply spoken to by other witnesses. Accordingly, I only record her evidence about medical entries not spoken to by other witnesses and those matters of which she had direct knowledge at the time. From her affidavit, this included the following:

1) She has been a registered midwife since 2007. Her duties as a community midwife with NHS Fife, a post she has had since March 2014, included support for vulnerable women during their pregnancies.

2) She was aware from other medical staff that the first respondent attended a clinic on 8 November 2016 and was approximately 24 weeks pregnant. The first respondent also attended for a scan on 16 November, which confirmed she was 26 weeks pregnant and had an estimated delivery date in late February 2016. The respondents attended at the local hospital for blood tests on 23 November 2016. On that date the respondents were surprised to learn, as they had from Kerry Parsons the previous day, that the child was on the child protection register. They stated to her that they agreed to engage with Kerry. She explained her own role to them and encouraged the respondents to engage with her and to attend for all ante-natal appointments. She discussed with them the first respondent's pre-term birth of the older sibling and their desire to have a home-birth for the child. She described "strenuously" advising them to seek medical assistance urgently if the first respondent went into pre-term labour again, as such a baby was unlikely to survive without medical help. In the course of reporting this meeting to Kerry Parsons, the following week, Wendy Johnstone learned that Kerry Parsons had provided bus tickets to the respondents to attend this appointment but the respondents had also requested and already received reimbursement of their travel expenses from a midwife at the clinic. The consultant saw the first respondent at an appointment on 20 November 2016. Observations were satisfactory. The first respondent attended at the clinic on 20 December 2016. The scan on 4 January 2017 was satisfactory. However, the first respondent reported to be of low mood and an appointment to address this with a professional was arranged for 20 January 2017. (The first respondent did not attend this appointment.) The next appointment that the first respondent

attended was on 31 January 2017 for an ultrasound, but she left before seeing a midwife for her ante-natal check.

3) In terms of the ante-natal appointments the first respondent did not attend, these included the following: 5 December 2016, 9 December 2016 (ultrasound), 12 December 2016 (the first respondent left after 15 minutes, before she was seen). She failed to attend for the appointment arranged for 20 January 2017, to address the first respondent's low mood. On this date the clinic midwife called the first respondent's telephone but, after introducing herself, the call was ended. Subsequent calls to both of the respondents' mobiles went straight to voicemail. The clinic midwife left a message advising that a replacement appointment was arranged for 24 January 2017 and left her own contact details if this had to be rescheduled. The first respondent failed to attend appointments on 24 January, and on 6, 13 and 20 February 2017.

4) The first respondent's pregnancy was characterised as "high risk" because she had had a previous pre-term baby.

5) She was aware from about late November 2016 of the first respondent's request for a home-birth or to birth her baby at home alone (ie without the midwife). Wendy Johnstone explained she had concerns at this time about a home-birth. This required a full risk assessment of the property and for two midwives to be on call. She also referred to an email on 25 January 2017 from the head of midwifery advising that, by reason of the second respondent's threatening and abusive behaviour and the risks this posed, a home-birth could not be supported. It also recommended that all subsequent midwife involvement be in a hospital

context, including any post-natal checks. The first respondent was advised of this by a letter dated 7 February 2017.

6) She also confirmed the attempts to visit and assess the respondents' flat for a home-birth on 10 and 17 January 2017. There was no one at home on 17 January otherwise she confirmed the interactions Kerry Parsons had described on 10 January, to the effect that the second respondent refused entry and also challenged Kerry Parsons as to how she had obtained the first respondent's mobile number. A further appointment proposed for 25 January was not pursued because, by that point, it was considered unsafe to do so by reason of the second respondent's volatile temperament. It was also agreed that midwives would not visit the first respondent at home in the post-natal period, given the risks to their safety.

7) In about early January 2017, Wendy Johnstone prepared a "missing persons alert (risk of absconding)" form. She did so because of concerns of the respondents absconding following the proposal to seek a child protection order from birth. The effect of this was to alert all hospitals across the country if the first respondent presented. The first respondent's father stayed in Ireland and it was considered a real possibility that they could end up there. The respondents had also talked recently about going "away for a few days" and there was information that the first respondent's mother might also be on her way to Scotland.

8) She was also in attendance at the hospital when Kerry Parsons served the interim child protection order obtained on the day the child was born. Attending medical staff left the room to enable this to be done. Initially, the first respondent was on

her own with Kerry Parsons and Wendy Johnstone and she listened to the specifications of the child protection order. However, the second respondent came into the room and was "very abusive and aggressive" towards Kerry Parsons and Wendy Johnstone. He refused to listen. Security were on standby. Wendy Johnstone explained to the first respondent that it was important for her to attend a post-natal check with the community midwife. However, the second respondent stated that she would not be attending because he had a GP appointment. Wendy Johnstone endeavoured to stress the importance to the first respondent attending for post-natal care. The first respondent left the room. By this point, Wendy Johnstone was standing very close the door with her hand on the door handle. The second respondent asked her to open the door. She carried on speaking, because she stressed how important it was for the first respondent to go to her post-natal check. The second respondent appeared to respect this so she got out of his way. The respondents left before the first respondent could have a full post-natal check prior to discharge. Notes made by other medical staff reported that the respondents "stormed out" of the maternity unit. Wendy Johnstone denied she was aggressive to either of the respondents. She wanted to be supportive. The whole situation was very upsetting for everyone. This was a young mum in a desperate situation. Kerry Parsons was also upset. Wendy Johnstone recorded the second respondent's presentation in the medical notes as "aggressive". The first respondent did not attend her post-natal appointment arranged for 23 February 2017.

Examination in chief

[265] Dr Petrie's diagnosis of post-natal depression of the first respondent was put to Wendy Johnstone, who confirmed that she would not have done anything differently in the light of this.

[266] She replied to certain passages in the first respondent's affidavit as follows:

1) She rejected the first respondent's contention that she had been offered "no assistance" to have a home-birth. She referred to the attempted visits for this purpose referred to in her affidavit. Despite the fact that this was a pre-arranged meeting, on the first occasion the second respondent refused entry. The first respondent was asleep and the second respondent did not want to wake her. Wendy Johnstone explained she needed to assess the property itself but the second respondent still refused entry. On the second occasion, the respondents appeared not to be at home.
2) On the day of the child's birth, she had received a call from a midwife whom the first respondent had phoned. The first respondent was stating that she was having a home-birth and the midwife had called Wendy Johnstone to confirm this, as the midwife was not aware of this arrangement. She confirmed to the midwife that there were no plans for a home-birth but that the details of how to manage the situation were in the first respondent's notes. She was aware that the first respondent had called the hospital. The first respondent was requested to attend at the hospital in order to deliver the child. She was aware from the notes that the first respondent was reluctant to do so but agreed.
3) In response to the first respondent's assertion that she had only had five minutes with the child after it was born, Wendy Johnstone confirmed that the child had

been born at 14.22 and was taken by medical staff from her care to the neo-natal nursery at 14.55. This was what should be done in terms of the plan, because the respondents would not be allowed unsupervised contact with the baby. Supervised contact had to be in the nursery because the maternity unit was too busy for the staff member to stay the whole time with the respondents for this purpose. According to the hospital notes, the respondents were offered the chance to visit the child in the nursery.

[267] She responded to passages in the second respondent's affidavit as follows:

1) She could not comment on whether the police had stopped the ambulance on its way to the hospital.
2) She confirmed the first respondent had a second degree tear which would normally require stitches. She had also been told she needed a post-natal check-up before discharge.
3) She adhered to her version of the interaction between her and the respondents and she did not accept the second respondent's characterisation that she was "intimidating". Neither she nor Kerry Parsons had been "in the face" of the second respondent. There was a highly emotional situation for everyone. She had not invaded the second respondent's personal space. She did not shut the door on him; she would never do that. In any event, the door was self-closing. She was not the type of person to act in a threatening manner, especially in such circumstances.

Cross-examination on behalf of the first respondent

[268] She was aware that the first respondent suffered from post-natal depression. At the time the first respondent booked in with the community midwife she would have completed a booklet providing maternity history. However, so far as she could recall, the first respondent had stated at that time that her mental health was satisfactory and she was not suffering low mood. She was aware by the time of the TCPCC, though, that the first respondent had suffered from anxiety and depression previously. It was put to her that the effect of post-natal depression might have affected the first respondent's attendance at ante-natal appointments but Wendy Johnstone did not know why the first respondent did not attend some of these.

[269] In response to a series of questions she confirmed that a request for a home-birth was not unusual; Fife NHS support these. However it was necessary to assess the house and they had not been able to do this. She confirmed that NHS Fife had decided by 24 January 2017 not to support a home-birth. Social work had been advised of this. She could not comment on the date on which Tom Bochenek became aware of this. It was put to her that this predated Tom Bochenek's visits to the respondents on 1 February 2017. She agreed, but confirmed that assessment for a home-birth was still a possibility. She was unable to comment on whether the first respondent understood the risks of a home-birth in comparison to a hospital birth, because there had not been the opportunity to fully explore this with her. She confirmed she had seen in the files a letter to the first respondent about this.

Cross-examination on behalf of the second respondent

[270] She could not comment on how quickly the child had been taken from the first respondent after its birth. The practice would be to allow skin to skin contact. In this case this had to be supervised and would last until the midwife was required elsewhere. She confirmed that the child was not moved to the nursery until about 33 minutes after its birth. She also confirmed that, even in respect of a second degree tear, it remained the mother's choice as to whether this be treated medically by stitches. It was put to her that the second respondent had only mentioned that he had a GP's appointment and had made no comment about the first respondent not attending her post-natal appointment. She disagreed with the second respondent's version and adhered to her own evidence. She was not blocking the second respondent's exit from the room. She confirmed her description of the second respondent, which included him being "aggressive". She confirmed that security did not have to be called. It was all very emotional and a difficult time. She absolutely accepted that the respondents found this to be a difficult meeting.

Re-examination

[271] There was nothing of significance in re-examination.

The petitioners' secondary witnesses

[272] I have considered affidavits from the petitioners' other social workers, namely Shaun Patterson, Karina Wilkinson, Emma King and Sandra Kindreich. Each of these witnesses had limited interactions (eg taking a telephone call or accompanying another social worker on a child protection visit) with the respondents and they formally spoke to

the relative file notes. I have already set out the substance of this evidence in parts A and B of Appendix 1.

The first respondent's mother

[273] An affidavit from the first respondent's mother was also produced. She confirmed that the first respondent was one of five children living with her until about four or five years ago. Her then partner was physically abusive towards her. This resulted in social work involvement and all five of her children being taken into care. The first respondent would have been about 15. Apart from having some contact with the older sibling while it was in hospital, the first respondent's mother had no direct knowledge of the matters canvassed in evidence before me. By and large, her information was second-hand, being from the first respondent. It is not surprising, therefore, that she repeats the first respondent's view about the nature of the placement she experienced in Gloucester, the prohibition on other family members attending there, how the placement ended and the other criticisms the first respondent advanced about the foster carer and her home. She did refer to the first respondent being very upset after the removal of the child and being told that she would not be allowed contact with it. She described having regular contact with the first respondent between February and December 2017 and the first respondent being very depressed and upset at this time.

The evidence of Dr Edward

Preliminary: challenge to Dr Edward's status as an expert

[274] In submissions, though not during the course of the proof, the second respondent challenged the admissibility of Dr Edward's evidence under reference to the case of *Kennedy* v *Cordia (Services) LLP* [2016] UKSC 6; 2016 SC(UKSC) 59.

Dr Edward's Report

[275] Dr Edward is a clinical psychologist. She has PhDs from the University of St Andrews in psychology and from Canterbury Christ Church University College in clinical psychology. She is chartered by, and an associate fellow of, the British Psychological Society. She has a recognised specialism in working with vulnerable children and adolescents and looked after children. She has acted as a consultant to an independent foster agency. She has contributed to judicial training in England and Scotland and has provided over 400 expert reports.

[276] She produced a report in this case for the purpose of assessing the possibility of rehabilitation of the child to the care of its parents, the respondents. The report was based on documentary materials (although not the third inventory of productions for the petitioners) and interviews with Debbie Adamson and with the respondents.

[277] It is not necessary to set out in full Dr Edward's account of her meeting with Debbie Adamson, as the import of this is consistent with Debbie Adamson's own evidence to this court. (As seen in her cross-examination, Debbie Adamson was challenged on the basis that she exaggerated or incorrectly recorded certain interactions, especially relating to the second respondent (eg her reference to the Harbouring Order was outdated; the allegation of domestic abuse was in respect of only one former partner of the respondent,

and failing to record that one week after requesting the removal of his telephone number the second respondent had then supplied it to her).) The principal features Dr Edward identified were the lack of engagement on the part of the respondents and the absence, generally, of any expression of interest on their part in the child. (Debbie Adamson was also challenged on the basis that she underrepresented the respondents' requests for contact and overemphasised the degree of non-engagement). Dr Edward also noted Debbie Adamson's recent observations about the child in its foster care placement.

[278] In relation to Dr Edward's meeting with the respondents, the history she obtained from them is largely consistent with their evidence and that which I have set out above. She noted, among other things, the respondents' friction with Kerry Parsons, the second respondent's diagnosis of bipolar disorder and his perception of not receiving support from the petitioners. From the first respondent, she elicited her preference for a home-birth for the child but also that their flat had not been assessed as suitable. She recorded their understanding that the police stopped the ambulance on the way to the hospital and their anger at the removal of the child at birth. The respondents had a better relationship with Kerry Parsons' successor, Debbie Adamson, but, while they continued to receive letters from the social work department, they explained that they stopped interacting with the petitioners' social work department because of what had happened at the hospital. They acknowledged there was a period of no contact after the child's birth and its removal from them, but they felt that the petitioners' social workers should have contacted them. She also recorded that the respondents felt let down that they did not have a chance to see the child or to say goodbye before it was moved to foster carers in England. Dr Edward recorded that neither of the respondents acknowledged her questions regarding their messages to have their mobile numbers removed from the petitioners' social work system. In relation to their

response to letters advising of children's panels and other hearings, the second respondent explained he did not attend because of his need to visit his father and the first respondent stated that she could not go but provided no explanation. The respondents felt they had done nothing wrong. The first respondent wanted a chance to care for the child.

[279] Dr Edward noted that the second respondent remained very angry about what had happened in the hospital and also about what had happened in Gloucestershire in relation to the older sibling. He repeated the complaints about the absence of a mother and baby placement in Gloucester and how that was cancelled. While the second respondent was critical of the petitioners' reliance on the parenting assessment in relation to the older sibling in these proceedings, Dr Edward recorded that the respondents found it difficult to understand the need for meetings or cooperation in order for an updated parenting assessment to be made. She also recorded that the second respondent presented the couple's view and that the first respondent was largely silent. The second respondent remained preoccupied with his own health concerns and those of his family, and Dr Edward noted him as speaking at length about issues with their tenancy. It was apparent to her that they wish to care for the child and that the first respondent is upset at the thought that this might not happen. They were able to acknowledge that the removal of the child from its current placement might be difficult, but she described it being difficult to gain the respondents' insight and understanding of what it would mean for the child if it were to be moved now and to leave its older sibling and its foster care placement in order to be returned to them.

[280] In the discussion section of her report, Dr Edward noted the breakdown in relationship between the petitioners' social work personnel and the respondents, and that the respondents' lack of engagement with the social work department prior to the birth of

the child was instrumental in creating the situation where they were not given a chance to care for the child after birth. She formed the view that the respondents "found it virtually impossible" to work alongside professionals in a manner that would allay any concerns about the well-being of the child. She found the second respondent was very much focused on his own personal interactions and that as soon as concerns were voiced by the social work department, the respondents ceased to have any engagement with social workers. This had the consequence of preventing any fuller assessment taking place. She also was of the view that the reasons they gave for the lack of attendance at hearings and meetings (ie where the plans for the child were considered), did not evidence an ability to reflect upon their own or their child's situation or to prioritise its needs. While the respondents said they were unaware of the plans for the child, she observed that they struggled to recognise how this might be related to their lack of attendance at meetings and hearings, and lack of direct meetings with the child's social worker, and their lack of response to correspondence sent to them.

[281] In relation to the respondents' reflection on the impact on the child of removing it from its current placement, Dr Edward observed that the respondents did not present with the capacity to understand the child's developmental and attachment needs or the ability to protect it from the impact of such a removal. While the parenting assessments carried out by Gloucestershire social services were some two years old, Dr Edward could not find any evidence that the conclusions drawn were no longer appropriate, particularly in the absence of either respondent actively engaging with therapeutic help or parenting courses. She concluded that the respondents' "inability to engage in an assessment process and consistently work alongside professionals" with regard to the child was "an integral aspect of parenting capacity, rather than being a separate issue".

[282] It was her clinical view that there was an inherent risk of the possibility of serious detriment to the child in removing it from its current home and severing its growing attachments with its older sibling and foster carers in order to place the child with the respondents, whom she regarded as not evidencing a capacity to understand or prioritise the child's needs and with whom they did not have an existing relationship. She expressed the view that had the respondents not consistently failed to engage with the petitioners' social work department and with medical professionals in the period prior to and following the child's birth, the option of contact could have been considered and assessed. Even in relation to the prospect of face-to-face contact between the child and the respondents in circumstances where the respondents did not care for the child, Dr Edward did not regard this as supportive of the child's placement and its need to build secure attachments in its current home. Any contact should be indirect.

[283] Dr Edward concluded that if the child were removed from its current placement this would sever the attachments it was building and that this would have "short and long term negative consequences" for its psychological development. Further, Dr Edward could not envisage a way in which such a move would take place without harm to the child. This would cause significant and unavoidable detriment to the child. Furthermore, following upon her interview with the respondents, she would have very considerable concerns regarding the respondents' ability to care for the child. She saw no evidence that the outcome of the parenting assessment conducted in 2016 was no longer relevant. The respondents presented with "limited capacity" to engage with professionals and to consider and respond to the child's needs. In relation to the limitations of the respondents, Dr Edward expressed this as relating to their capacity and not their intention. She acknowledged their distress. However, in her view, the best interests of the child would be

served by allowing it to remain in its current placement and to be afforded the security and stability offered by adoption.

Dr Edward's examination in chief

[284] Dr Edward adopted her report and confirmed that, having seen the documents in the petitioners' third inventory, nothing therein caused her to change her view. Nor did the terms of Dr Petrie's report.

Dr Edward's cross-examination on behalf of the first respondent

[285] In cross-examination, she confirmed that her meeting with Debbie Adamson had lasted about one hour and that with the respondents about 45 to 50 minutes. In relation to Dr Edward's recording Debbie Adamson's position that the respondents "did not engage at all" with the petitioners' social work department, she confirmed that this was the impression given to her by Debbie Adamson. She understood that Debbie Adamson's contact with the respondents was only after the birth of the child. The use of the phrase "at all" was in relation to the level of engagement generally. There was no engagement in the process, although that phrasing did allow for the possibility that there was some contact with the respondents. She confirmed that she had been advised by Debbie Adamson that the respondents had contacted her and asked for their contact details to be removed from social work records.

[286] In relation to the petitioners' reliance on the Gloucestershire social services parenting assessments, Dr Edward did not accept that circumstances had changed but, rather, one would expect a previous parenting assessment to be taken into account when considering the situation for subsequent children. Nor did she accept the proposition put to her, that the

parenting assessment in relation to the older sibling was of little relevance in relation to a different child, namely the child. It was her understanding that there was insufficient communication between the petitioners and respondents and the inability of the latter to engage such as to make new parenting assessments impossible. She confirmed that it was her understanding that concerns had arisen by the time the respondents had left Gloucestershire, which had led to child protection steps in Scotland and the recommendation that the child be accommodated from birth.

[287] Dr Edward was challenged on the basis that her focus had been on the second respondent and that she had not asked questions of the first respondent. Dr Edward did not accept this, explaining that when she directed questions to the couple the second respondent answered and if she directed questions to the first respondent she contributed very little to the meeting. It was put to her that she could have met separately with the first respondent. Dr Edward accepted this might have been possible, however this was not necessary and her task was to assess the respondents as a couple.

[288] It was put to her that it was unfair for social work to hold a lack of communication against the respondents where their child had just been removed. Dr Edward did not accept that proposition, observing that she would expect the social work department to look to see if parents were capable of prioritising the needs of the child at all times, albeit she would expect them to understand it was a difficult time for the respondents.

[289] Under reference to the observations in the curator's report, that it was "draconian" to remove the child when there is no evidence of serious physical harm, she confirmed that it was generally best for a newborn to have contact with its parents and that this would be her expectation. She accepted that if there were concerns, arrangements could have been made for supervised contact. Where the child had been removed shortly after birth, after a period

of skin-to-skin contact, she would have expected there to be supervised contact. She would have expected the local authority to go through the necessary steps to arrange contact for the parents, if this were the appropriate outcome for the child. She accepted that if the petitioners had never considered rehabilitation that this would be unsatisfactory. She also accepted that to decide upon adoption within one month was a short timescale but expected that it would be dictated by the engagement of the respondents and the needs of the child.

[290] She was cross-examined under reference to her report, and she confirmed that it was her clear sense that the respondents wish to look after the child. There was more evidence of distress on the part of the first respondent. It was put to her that this was a positive factor. She replied that one would want to see parents wish to care for their child and also that not caring for their child had had some impact on them. Under reference to her observation that she would have expected the petitioners to assess the respondents in their current situation, Dr Edward accepted that this would be the ideal but that it was appropriate for the social work department to look at past concerns.

[291] In relation to her observation about serious detriment, she confirmed she was not applying this as a legal test but as a clinical psychologist analysing the impact on the child. When pressed as to whether this was her view regardless of where or to whom the child was removed, Dr Edward explained that there was always an inherent risk because children build up attachments and it is always best for them to stay with the attachments that they have built. One of the positives for the child in this case had been its transition from foster care to its current placement; that it had formed strong attachments to its foster carers and to the older sibling. There would be a detrimental impact to the child to sever those ties, wherever the child went. She confirmed that this was a general point, meaning that the effect of severing such ties would affect any child taken out of such an environment. This

was a difficulty for children in care and the issue was more complex if the child's foster carers believed that this was a permanent placement. Foster carers had to be good about managing expectations. The child would understand that this was its home and that this was its family. It was a very positive placement and the child was well settled. Dr Edward regarded removal from it to be "exceptionally difficult" for the child. She accepted that she herself did not visit the child in its current placement, but she had spoken to Debbie Adamson who had. Her evidence was also based on her understanding of child development and child attachment. It was not necessary for her to visit the child and to intrude when all the evidence was that the child was well settled in the placement. She did not accept that this weakened her own conclusions.

[292] It was put to her that if the child were moved to other carers with a positive environment then, over time, the child could adjust and have a healthy and safe childhood. Dr Edward was somewhat guarded, explaining that this would be the hope but it would depend on the manner in which the transition was managed and the quality of care in the new placement. In any event, this would need more qualified support to succeed. This was because every time one broke an attachment and then asked the child to rebuild it, this increased the difficulty for doing precisely that. In that circumstance, the new carer must be especially attuned to meet the needs of a child. It would all depend on the particular circumstances of such a move. It was put to her that, nonetheless, this happened to many looked after children but Dr Edward countered that she would not suggest that this was ever beneficial to them.

[293] She was asked whether her concern arose only from the removal of the child from its current carers as opposed to any detriment to it by residing with its parents (ie the respondents). However, Dr Edward confirmed that both of these features caused concern.

In her view, the issues raised in the past in relation to the respondents in the parenting assessments were still relevant and it had not been possible to address those concerns or to be sure that the respondents could offer the child a safe and caring environment. Finally, it was put to her that the petitioners should have taken into account the diagnosis of post-natal depression made in respect of the first respondent. She expected that this would have been taken into account to inform the petitioners' understanding of the respondents and their difficulty in engaging with them. She accepted that the perceived lack of interest could be the effects of depression.

Dr Edward's cross-examination on behalf of the second respondent

[294] At the outset of cross-examination some time was spent clarifying what was meant by use of the term "assessment". In summary, Dr Edward confirmed she had not been instructed to carry out a parenting assessment in the sense of one assessing long-term whether the respondents should have contact. She did consider what was in the best interests of the child but she was not endeavouring to undertake the kind of assessment as had been undertaken by Gloucestershire social services. She confirmed that she would not visit the child for the purpose of preparing her report, if it was not going to be beneficial to her assessment or to assist in informing her understanding.

[295] In relation to the information provided to her by Debbie Adamson and her subsequent consideration of the petitioners' third inventory, it was put to her that there was more contact with the respondents than suggested by Debbie Adamson. She explained that she recorded what she had been told, to the effect that there was no engagement. This was a specific concern that had been raised. The respondents had gone so far as to ask for their numbers to be removed from the records of the social work department. She knew that

there had been some face to face contact and some contact by text. She was aware that the first respondent had asked for photos of the child on more than one occasion.

[296] Dr Edward was, understandably, not able to assist in reply to detailed questions about the chronology of events or the thinking on the part of the petitioners' social work department. It was put to her that, after having asked for their contact details to be removed, the respondents were subsequently in touch asking for contact. Dr Edward maintained her position that the fact that the respondents wanted no contact at some point remained a cause for concern at the very time that the petitioners were considering options for the future for the child. So far as she understood it, this attitude on the part of the respondents caused the petitioners' social workers concern and they relied on this in forming the view that there was no alternative for the child other than to remain with its current foster carers. She explained further that this feature would have caused difficulty for Debbie Adamson in trying to provide a coherent life story for the child. This particular feature was part of the overall picture of a lack of engagement and informed the planning for the child.

[297] She stood by her observation of what Debbie Adamson had told her of her meeting with the respondents. This was to the effect that, while Debbie Adamson supplied information about the child, the respondents did not specifically ask for information about it. She accepted that if what Debbie Adamson had told her was inaccurate then this might require her to reconsider her own conclusions. Dr Edwards was again challenged that she might have met with the respondents individually. She accepted that she might have done so but she was keen to see how they presented as a couple, and to see how they would describe the situation and their engagement. She was also keen to observe how they could evidence reflecting on what was in the best interests of the child.

[298] There was an extended passage in cross-examination about the petitioners' failure to respond to the May letter sent from the second respondent's lawyer, requesting contact. She was not aware of this. It was put to her that this would lead her to change her view on the question of the engagement, or a lack of engagement, on the part of the respondents. She resisted this. While there were moments of engagement by the respondents with the social work department, this was intermittent and she was not convinced that these small elements would suffice to provide a basis for a meaningful assessment to enable consideration of the return of the child to its parents. She accepted that the request in May 2017 had been unanswered by the petitioners. What she understood from Debbie Adamson's evidence was that there had not been consistent and ongoing engagement on the part of the respondents. Accordingly, while there might have been a letter from the respondents in May 2017 which was not immediately responded to, and which may be an issue for them, this did not change her fundamental view that consistent engagement on the part of the respondents was absent.

[299] In relation to Dr Edward's observation that the lack of consistent engagement at the child's birth did not allow assessments to proceed or for alternatives to be considered, it was put to her that she was prejudging an issue and that the respondents had a different interpretation of these events. Accordingly, it was suggested that this influenced her final conclusion. Dr Edward confirmed her understanding of the situation as provided to her, including Debbie Adamson making attempts to engage as part of an ongoing process and not as a one-off. She had formed the view she had as to the respondents' understanding and ability to engage from the information available to her and from the interview she had conducted. Furthermore, she confirmed that it had not been possible to reach a conclusion that the concerns that subsisted prior to the child's birth had been allayed. Nor had it been

possible to allay concerns about medical issues or the proposed home-birth. In her view, there was insufficient information to enable the petitioners' social work department to assume that it was safe for the child to go home with its parents or that it was safe to look at rehabilitation.

[300] She was challenged on her conclusion that the respondents did not present with the capacity to understand the child's developmental and attachment needs, or that they did not have the capacity to protect the child from the impact of such a move (ie for the child to be returned to their care). She accepted she had not carried out a "parenting assessment" but this was a conclusion based on the material available to her, including the history and a whole variety of factors. It was put to her that if the information available to her had been incomplete that this would invalidate or weaken her conclusions. She accepted this, if there was information to suggest that she was wrong to conclude that the respondents did not have capacity to care for their children. She was challenged on her observation, to the effect that if the respondents had engaged contact would have been offered. She responded that she was recording what Debbie Adamson had indicated to her and that if the respondents had engaged fully there would have been a process to assess their ability including the institution of contact.

Re-examination

[301] Dr Edward confirmed that parental engagement was necessary if a full parenting assessment was to be carried out. She also agreed that it would be difficult to conduct such an assessment if there was a lack of engagement and if social workers were banned from the respondents' property. She also confirmed that, in any event, it must be safe for the child and it was always necessary to have a prior assessment. It would not be a case of placing

the child with the parents to see what would happen. In relation to the May letter from the second respondent's agents, she confirmed she would take into account the fact that shortly thereafter there was a meeting which the respondents did not attend. She confirmed that when she referred to her "clinical view" that she was expressing her view as to what was in the best interests of the child based on her understanding, training and her experience of looked after children and how they coped with significant life events. It was an all-round view of the child and the risks to it.

The respondents' evidence

The evidence of the first respondent

The first respondent's affidavit

[302] She was 19 years old and unemployed. Her partner was the second respondent and they were the parents of the older sibling, born in early February 2016, and of the child who is the subject matter of these proceedings. She rejected the petitioners' position that it would be seriously detrimental for the child to reside with her and the second respondent. She stated that the child was taken away from her within minutes of birth and that she had not had contact with it since that time. She also described as having been fortified by the curator's report and that this prompted her to instruct her own solicitors to resist these proceedings.

[303] She was highly critical of the petitioners accepting "at face value" the information provided to them by Gloucestershire social services and which she said they had failed to consider in a fair and objective manner. She was critical of the fact that the petitioners did not give her a chance to look after the child before they took it away. This criticism was immediately followed by a long passage in her affidavit focusing on her allegation that a

meeting with Gloucestershire social services precipitated the premature birth of the older sibling.

[304] The first respondent's specific criticisms of Gloucestershire social services include the following matters:

(1) The first respondent described a core group meeting on 1 February 2016 with members of Gloucestershire social services, including David Shaw, the then social worker for her unborn child (ie the older sibling). She described being upset by unflattering comments about members of her family, including her mother and her mother's inability to look after the first respondent or her other children. She felt that no one at that meeting offered her support. Shortly thereafter she went into labour with the consequence that the older sibling was born 11 weeks premature. She alleged that David Shaw's comments endangered her health and the life of her baby. She stated that she made a complaint against him and she emphasised the fact that this led to his loss of employment with Gloucestershire social services.

(2) As a consequence of her complaint against David Shaw, she formed the impression that Gloucestershire social services had turned against her and "showed little interest in my best interests or in the best interests of [the older sibling] and my future relationship with [it] or [its] future relationship with me". Her allegation of a lack of support provided to her by Gloucestershire social services is *a leitmotif* running throughout her affidavit and her parole evidence.

(3) She rejected the proposition that she did not regularly visit the older sibling in hospital. She stated that she was discouraged by the midwife from seeing it on the day of its birth.

(4) Her first criticism of the foster care placement with the older sibling was that this was not what had been promised to her. Her position was that she had been promised a place in a mother and baby unit. She assumed that this would take the form of a residential home with other mothers and babies. She stated that she was surprised to be placed with a foster carer, whom she found to be controlling and unsympathetic. In her view, she had been promised that the second respondent could be part of the foster placement but he was forbidden from visiting her at the placement as were members of her family. She stated that she was never given any explanation as to why the second respondent could not visit her and the older sibling at the foster care placement. She also alleged that the foster carer's home was not suitable for a mother and baby. She was critical of not being allowed to leave the foster carer's home on her own with the older sibling.

(5) There is a specific allegation that the older sibling had been left out in the sun without proper protection. She blamed the foster carer and understood that the foster carer blamed her for that episode. She also recorded that she heard Catherine Stewart and the foster carer discussing the first respondent's level of telephone contact with her family and the second respondent. She understood that they had discussed the possibility of taking her mobile phone from her. She also recorded having to provide a hair sample to be tested for alcohol and drug abuse. She understood latterly that she was not obliged to provide these

and that these were negative. She stated that she was never given any explanation as to why the samples were requested. She repeated her allegation that she was "given no effective support or assistance" by Gloucestershire social services while she was in the foster care placement.

(6) There was also a specific incident where the older sibling apparently became resistant to taking SMA milk. The first respondent described giving him warm water and changing to a different formula but this angered the foster carer, whom she described as not liking being disagreed with. The first respondent described a further incident where she and the foster carer disagreed about whether the older sibling could be given a bottle of pre-prepared formula from the refrigerator. She described it as upsetting to be told by the foster carer to use the bottle from the fridge rather than to make up a fresh bottle. She also made an allegation of an occasion where members of the foster carer's family attended and were consuming alcohol in front of her and the older sibling. She stated that she complained at the time to Talia Underwood about the state of the foster carer's house and the restrictions placed upon her and the older sibling.

(7) Turning to her understanding of the ending of the placement, she stated that this happened at the end of a visit on her own (ie without the older sibling) with the second respondent. The foster carer had come back to collect her at an agreed meeting point. The first respondent stated that she had sent a text to explain that she would be two or three minutes late. She said she received a text stating that the foster carer would wait but, when she got back she saw her driving off with the older sibling in the car. She stated that she had been given

no warning about this and that this was very distressing. (She does not refer to having called the police and reporting the older sibling as having been kidnapped, as spoken to by other witnesses.) The first respondent stated that she had not been given any reason to think that the placement was about to be terminated. She said she received a telephone call from the out of hours social work team telling her that the placement had ended and that she was not to return to the foster carer's house. She was surprised and upset by the manner in which the placement ended and that she had been given no explanation as to why ended in that way. She also stated (somewhat inconsistently) that about an hour after the foster carer had driven off, Naomi Gillard had promised her that a new placement would be found. This did not happen. She stated that she contacted Gloucestershire social services several times, including asking to speak to Catherine Stewart, but she received no information and had no reply from Catherine Stewart.

(8) Following the termination of the placement, as she understood it, she also stated categorically that she had not been allowed any contact with the older sibling.

(9) In relation to parenting assessments, she stated that she was unaware that these were being carried out in relation to her and the second respondent during the foster care placement. She was categorical that no one from Gloucestershire social services ever explained to her that there would be a parenting assessment or explained what this would involve. She rejected the suggestion that she had not engaged with the assessment process, repeating her position that she was unaware of any such assessment. She also rejected the suggestion that she had

not engaged with the older sibling in hospital and she challenged what it meant to "engage".

(10) She explained that she became aware in early October 2016 that she was expecting the child. Later that month (on 18 October 2016) she and the second respondent went to Fife to be with the second respondent's mother, who was unwell. She stated that Gloucestershire social services were aware of her second pregnancy and that neither she nor the second respondent sought to conceal it.

(11) She also stated that she and the second respondent had not given up their tenancy in Gloucestershire, although this was subsequently repossessed by the landlord.

(12) She also made reference to the involvement of her support worker, Gayle Phelps, who had been her allocated social worker when she was in care and was expecting the older sibling. As she described it, Gayle Phelps "seemed to sympathise with me and to disapprove of the way that I was being treated by [the foster carer] but subsequently she did nothing to help me… I had thought of her as supportive and was disappointed that she did not do more to help."

(13) The first respondent also described contacting Catherine Stewart with her address in Fife after she had moved there. She stated to Catherine Stewart that she wished to have contact with the older sibling, but was told that she could not have contact and arrangements were being made for the older sibling to be adopted. The first respondent described being very upset by this and of having no effective means of contacting her solicitor from Scotland. She did not want

to go back to Gloucestershire. She was depressed. She described having some minimal letterbox contact.

(14) The first respondent referred at several points to having consulted solicitors in England but she felt that they were unable or unwilling to help her.

(15) Generally, in relation to Gloucestershire social services, the first respondent was very critical and believed they offered no support. They were determined to prevent her having contact with the older sibling. She repeated the assertion that Catherine Stewart repeatedly failed to return her calls and failed to contact her after the older sibling was taken away from her. She repeated her belief that David Shaw had been dismissed or left his employment with Gloucestershire social services as a result of her complaint. She was critical that she was never told the outcome of her complaint.

[305] The first respondent's affidavit then turned to her move to Fife and the circumstances by which the petitioners became involved in relation to the child. She was critical of the petitioners. The salient features of her affidavit were as follows:

(1) She asserted that "at no point" did the petitioners offer assistance for a home-birth and she would have accepted any assistance they would have offered.

(2) She was unaware of any multi-agency plan for her to give birth in hospital. She should have been told about this.

(3) In relation to the day of the child's birth, her waters broke. She spoke to the midwife but before the call ended she described an ambulance arriving with paramedics. She went in the ambulance but it was stopped by police on the way to the hospital. She understood that the petitioners' social workers had

asked the police to stop the ambulance to ensure that the first respondent was in it.

(4) After she gave birth she described having the child in her arms for only five minutes before it was removed by a member of the nursing staff whom she understood to be acting on the instructions of the petitioners' social work department. She explained that Kerry Parsons attended the hospital to collect the child but that she did not speak to the first respondent. Kerry Parsons contacted her the next day to explain that there was a condition of no contact by the respondents with the child and that there would be a hearing the next day at the Children's Panel. The first respondent phoned Kerry Parsons on the day of the proposed Children's Hearing to explain that she could not attend. Kerry Parsons advised her that that hearing could not be put off and it would proceed in her absence. The first respondent stated that she had no opportunity to consult a solicitor; that she was not offered the services of any duty solicitor and that she was not told that she could arrange for a solicitor to appear for her at the hearing.

(5) The first respondent's view of the petitioners' other witnesses was equally critical, and she also felt that they were determined to prevent her having any contact with the child and did nothing to facilitate contact.

(6) The first respondent supposed that she should have consulted a solicitor at the point when the child was taken away from her, but she described being too emotionally upset and depressed to do so at that time. She was only prompted to seek legal advice after receiving the curator's report.

(7) She referred to the meetings she had had with each of Dr Petrie and Dr Edward.

The first respondent's evidence in chief

[306] The first respondent began by adopting her affidavit and also agreeing with the diagnosis of Dr Petrie that she had suffered post-natal depression after the birth of the older sibling and the child. A number of passages from the affidavit of Catherine Stewart were put to her, simply to enable her to express disagreement with what was stated. She stood by her version of how the placement ended. She otherwise disagreed with Catherine Stewart's observations in the parenting assessments that the first respondent was unable to meet the needs of the older sibling; that throughout the placement she struggled with most aspects of safe parenting and that she had not demonstrated an ongoing commitment to her baby. The second respondent did not agree with this. In her view the foster care placement had gone well. When asked if she often misunderstood information she simply replied "no", but this was not further explored with her. She did not agree with the observation that she could not prioritise the older sibling's needs or that she would be unable to care for the older sibling in a safe and secure manner.

[307] Under reference to Naomi Gillard's affidavit, she stood by her version of events that she was promised a place in a mother and baby unit, although she accepted that she had visited the foster carer's home a couple of weeks before the older sibling left hospital and was told she had to stay there. She denied that she struggled to engage with the foster carer. She rejected the suggestion that her relationship with the second respondent was volatile, stating that they always stood by each other.

[308] She asserted she was able to pick up the older sibling's cues and that she had provided the basic care of changing its nappy, feeding it and being with it in her bedroom. In relation to the ending of the foster care placement, she described another incident, not the

one leading to its termination (on her view), where the foster carer took the older sibling from her arms and drove off without her. She phoned the police and reported this as a kidnap because the foster carer had driven off without her. She denied that Naomi Gillard tried to persuade her to return to the foster care placement after it had ended. Generally, in relation to Gloucestershire social services and the petitioners, the first respondent was very critical and believed they offered no support and that they were determined to prevent her having contact with the older sibling.

[309] On the issue of the state in which the flat in Gloucestershire was left, she accepted that the belongings shown in the photographs were hers and had been bought for her by social services. However, she denied that she and the second respondent had left the flat in a cluttered state and with rubbish strewn everywhere, as shown in the photographs.

[310] Under reference to Talia Underwood's affidavit, she accepted that an earlier relationship she had had with a 35-year-old man when she was no older than 15, referred to by Talia Underwood, was not good for her. She had been told at the time that he was 10 years younger than he in fact was. She denied having met the second respondent when she was 10, stating she first met him when she was about 15. She denied claiming that the second respondent was not the father of the older sibling. As for the number of visits to the older sibling while it was in hospital, in her view she was there most of the time. She could only remember not going a few times and she would stay the whole day. She did not stay overnight at the hospital other than on the last five nights before its discharge. She denied that either she or the second respondent ever threatened the foster carer. She disputed claiming that she or the second respondent would take the older sibling back. When it was put to her, she did not specifically deny that the foster care placement had been kept open for a further seven days. However, she maintained that she was told she could not go back

and that a new placement for her and the older sibling would be found. She described waiting for a phone call advising her of the new placement.

[311] Under reference to passages in Kerry Parsons' affidavit, the first respondent explained that she had stated to Kerry Parsons that she did not have to engage with social work when she turned 18. She did not agree with the comment that she displayed a lack of insight. She denied being unaware of the risks of a home-birth. It was put to her that on many occasions Kerry Parsons was refused entry to the flat. (Kerry Parsons had referred, by way of example, to attempted visits on 10, 11, 13 and 17 January 2017.) The first respondent accepted this happened but she simply volunteered that, on the first occasion, she had been asleep. She did not provide any explanation for Kerry Parsons having been refused access for child protection visits on 14, 17, 19, 20 and 21 February 2017. Kerry Parson's observation that the first respondent had missed ante-natal appointments was put to her. The first respondent accepted she had missed some appointments. She offered an explanation that she had attended one but had been told by reception that there was no appointment on that date. She accepted she could have missed some appointments. She did attend some. She was told the baby was doing okay. She did not remember sending the text on 24 January 2017, as described by Kerry Parsons. She denied being abusive towards social workers.

[312] She denied that she was not fit for discharge after the child was born. She had been told she needed one stitch, that it was her choice and she decided not have this done before leaving the hospital. She was never told that she could visit the child in the nursery after it was born. She denied not engaging when being told about the Children's Hearing due to take place two days after the child's birth. She explained that she really didn't get on with Kerry Parsons and that she and the second respondent wanted the social worker changed.

[313] She also had passages from Lesley Stevenson's affidavit put to her. She denied the suggestion that she did not engage with social workers. It was not true that she had never asked for contact with the child. She denied that she and the second respondent were hostile to professionals. When asked why she had not attended at the looked after child review meeting on 20 July 2017, she explained that they didn't have the money to get to the meeting. A series of leading questions also prompted her to suggest that she was depressed and upset at that time. A passage from the social work file entry dated 19 July 2017 was put to her. This was her call to Lesley Stevenson and was an example of her requesting contact. She explained she asked for contact at this point because, if the child was to be adopted, she wanted one-off contact with it before this happened. (She did not suggest that in this call she was requesting contact generally.) She rejected Lesley Stevenson's conclusion that it would be seriously detrimental for the child to reside with the respondents.

[314] Passages from Debbie Adamson's affidavit were put to her. Consistently with her evidence about similar comments in the affidavits of the petitioners' other witnesses, she rejected the suggestion that she had prioritised her relationship with the second respondent in preference to bonding with the older sibling. She could recall the Children's Hearing on 12 April 2017 but could not explain why she did not attend. After prompting, she said she was feeling depressed. The file entry recording her request (by email) that the respondents' telephone contact details be removed from the petitioners' social work system was put to her, but she could not remember sending it. Her response to passages in Mr Bochenek's affidavit, to the effect that she prioritised her relationship with the second respondent, was again to state that this was not true. She confirmed she had only met Mr Bochenek once, when he came to her flat on 1 February 2017. She had little to say in relation to Wendy Johnstone's affidavit. She did not agree that she had showed "no warmth" to the

older sibling when it was in hospital. She did recall meeting with the curator and she confirmed that that meeting had gone well. With the social work department, it had always seemed that they had never listened to the respondents. She agreed with the curator's report. Her meeting with Dr Edward lasted about 45 minutes.

Cross-examination of the first respondent on behalf of the second respondent

[315] The only topic was to enable the first respondent to explain that travelling expenses had been provided to enable her to attend these court proceedings.

Cross-examination of the first respondent on behalf of the petitioners

[316] The first respondent accepted that members of the petitioners' social work department had tried to meet with her on multiple occasions before the child was born and that they had regularly been refused entry to her flat. She accepted that she had a long history of involvement with Gloucestershire social services and that she had been in care from 2015. This was because of concerns about her mother being able to look after her. She accepted that these types of issues required to be discussed in the context of her expecting her first child (ie the older sibling), as David Shaw had endeavoured to do. She accepted that he was not out to get her. She accepted he was an agency worker. It was put to her that it was not correct that Gloucestershire social services had showed little interest in her after she had complained about David Shaw, as she asserted in her affidavit, and she conceded that they had given her a little support. She accepted that she had a social worker and an advocate at that time, that she had been offered the services of a psychologist and that her unborn baby (ie the older sibling) also had its own social worker. She nonetheless maintained that she felt that Gloucestershire social services had "turned against" her.

[317] In relation to her criticisms of the mother and baby foster care placement, she accepted she had been told that this would be a foster care placement several weeks before it commenced. She maintained she had been promised a place in a mother and baby unit. She accepted the most important thing was that she and the older sibling got to stay together and that this is what Gloucestershire social services had arranged: that she got to live in the same house with the older sibling and spend time with it in her bedroom; and that the foster carer was experienced. Her criticism of the foster carer's home was because the stairs were, in her view, too steep to walk up and down with a baby in her arms. (She later volunteered that the windows were rusty.) She accepted that she didn't like being at the foster carer's house because it was too far from the centre of Gloucester and because she did not get to see the second respondent as much as she wanted. She disagreed that she was more focused on what she wanted and on her relationship with the second respondent, than what was best for her baby. She explained that she spent most of her time in her bedroom in the foster care placement but she nonetheless maintained that the foster carer had put up "obstacles" to her looking after the baby. This was when she was downstairs and the foster carer seemed to take over whatever the first respondent was doing. She denied that the foster carer was being supportive. Again after rehearsing the level of support in the form of a social worker for the older sibling, a social worker and advocate for the first respondent and the services of a specialist mother and baby foster care placement, it was put to the first respondent that she had been offered a package of support. The first respondent's answer was to suggest that she wouldn't say it was "much support". She was pressed on her observation, in her affidavit, that Gloucestershire social services had provided "no effective support". She did not feel that Gloucestershire social services supported her. Ultimately, she accepted that these words were not all her words and that the phrase "effective support" had been

inserted by her solicitor. She could not explain why those words appeared in her affidavit; they were not her words.

[318] She was challenged on her version of how the placement came to an end. This was not the first occasion on which she had returned late to the mother and baby foster care placement. Talia Underwood's observation in her affidavit that the first respondent had failed to return to the placement but had stayed out overnight on 11 May 2017 was put to her. The first respondent maintained that Talia Underwood was wrong. (Talia Underwood had not been challenged in cross about this.) It was also put to her that it was excessive on her part to call the police and report the "kidnapping", given that the older sibling resided at the foster care placement and that this was governed by a court order. She nonetheless maintained that this was a kidnapping and she confirmed that this remained her view.

[319] She accepted that she had entered into an agreement governing the amount of time she was allowed to be away from the placement. She also accepted that, because she herself was still subject to a care order, her freedom to come and go was limited and that this was part of the care plan for her. She also accepted that she was late returning back to the foster carer from her visit with the second respondent. On the occasion she referred to as bringing the placement to an end, she accepted that she had been visiting the second respondent and that the baby (ie the older sibling) was in the care of the foster carer while that visit took place. She accepted she knew the older sibling was safe. In her mind, this was the same occasion on which she had reported the older sibling as kidnapped and on which the placement had ended. It was put to her that the placement had been kept open for a further week but she maintained she had been told it had ended. She rejected the suggestion that she could have returned but chose not to. She did not accept that Naomi Gillard had tried to persuade her to return to the placement or that she had asked her to go back to the

placement while she tried to sort another placement out. She maintained that she had received a call which told her that she could not return to the placement. She denied asking for a different placement.

[320] She was challenged on the assertion in her affidavit that after the placement ended all contact thereafter was denied. She accepted that this statement was not correct and that she had not been denied contact. She could not explain why this statement was in her affidavit. It was put to her that for three weeks after the foster care placement had ended she had been offered 12 contact sessions with the older sibling but had only taken up one of these. Her only response was to state that she could not remember if there were 12 sessions or not. She was pressed to explain why, having been offered regular contact with the older sibling, she only came once. In her view she had turned up more than once. It was put to her that she chose not to turn up for contact, but she denied this. She accepted that she was not precluded from turning up for contact. She accepted that if she had wanted to have contact, after the foster care placement had ended, she could have. She could only state that she had turned up to some of these. She was again pressed that she was choosing not to go to the other sessions but she simply said she wouldn't say that she was "choosing" not to.

[321] She was cross-examined under reference to Catherine Stewart's parenting assessment. It was put to her that she knew that there would be a parenting assessment as part of the plan for the older sibling. She confirmed she knew that when she went into a mother and baby placement, there would be a parenting assessment. However, she maintained that she did not know that Catherine Stewart was conducting a parenting assessment. She was asked what difference it would make if she knew that Catherine Stewart was carrying out a parenting assessment, if the first respondent was otherwise engaging. The first respondent stated that the parenting assessment was to be of both of the

respondents, ie as a unit, to prove that they could both parent their baby. It was put to her that in any event, the first respondent would want to do her best to demonstrate her capacity to parent. The first respondent maintained that she did do her best. She also maintained that she did her best in her dealings with the petitioners' social workers but that she did not get on with Kerry Parsons.

[322] Parts of the parenting assessment were put to her as follows:

(1) In respect of the particular concerns local authority and other professionals raised (see the 11 bullet points at the top of page 2), she did not entirely accept the observation that she had no stable experience of being parented herself. She accepted that there had been prior episodes of her going missing while she was herself a child in care. She also accepted that after the birth of the older sibling, she had presented with a chaotic lifestyle, of missing appointments and not being able to manage her money. She also accepted the description that she had been at risk of sexual exploitation in the past and had misused illegal substances and alcohol before the older sibling was born. She was unable to offer comment on the observations specific to the second respondent and his other, older children. She accepted that it was a concern that the second respondent was "controlling", but she maintained that he wasn't. She accepted that the second respondent had a history of substance use, although this was just cannabis. She did not accept that her visits to the older sibling in hospital were "sporadic"; she maintained that she was there regularly. As for the visits lasting only a few hours, she explained she was in supported living accommodation and she was brought to the hospital for some of the mornings. She denied that there were days when the older

sibling was not visited in hospital. She accepted that neither she nor the second respondent was working and so they could have been at the hospital every day. In her view, she did turn up. She denied not engaging with professionals and denied leaving the placement. She understood that the second respondent did have a personality disorder. She disagreed, however, that he suffered from depression or became aggressive when challenged. In relation to the observation that she had reported having depression but that she had missed several GP appointments to address this, she explained that she had attended some of the doctors' appointments while she was in the foster care placement but that she had not otherwise gone to the GP. She confirmed she had taken an overdose of painkillers before she had had the older sibling. In response to the concerns reported that she was not bonding with the older sibling, she maintained that she was bonding with it. She maintained she was not told this at the time. She denied that she did not make eye contact with the older sibling or that it turned its head away from her, as observed by medical professionals.

(2) She was referred to the seven appointments Catherine Stewart arranged for the purposes of the parenting assessments in March 2016, before the older sibling was discharged from hospital. Only one of these was recorded as completed, meaning both respondents attended. The first respondent attended only one other of these appointments. As for the six appointments arranged between mid-May and mid-June 2016, which included the mother and baby foster care placement, the first of these had to be abandoned because the first respondent had only risen one hour after Catherine Stewart

had arrived. Another one of these required to be abandoned because the health visitor was present and other issues fell to be discussed. The only meeting at which both respondents attended was that on 13th June 2016. Otherwise, neither of the respondents attended any of the other proposed meetings. At this point in her evidence the first respondent became sullen. She could not explain why she had failed to attend these meetings.

(3) In the main, the first respondent did not accept the observations in the parenting assessment that she struggled to maintain a routine for the older sibling; that she struggled to encourage it to have a full feed and that she did not always sterilise bottles. Nor did she accept the observation that while the older sibling was still in hospital, she struggled to talk to her baby, to cuddle it or to provide it with emotional warmth. She disagreed that the older sibling had been left for days without a visitor. She asserted that the longest she had left the baby was for a day, not days. In her parole evidence she maintained that she had also stayed for five overnight visits shortly before the discharge of the older sibling from hospital, albeit this had not been recorded in her affidavit. The parenting assessment recorded only two overnight stays at this time, something which the first respondent did not accept.

(4) In respect of mental health support, the parenting assessment recorded that she had been offered the services of a psychologist but had only met with one once during the foster care placement. The first respondent, who became evasive during this passage of evidence, could not explain why she did not further pursue that help, other than to observe that the placement had ended.

(5) The parenting assessment also recorded the observation of medical staff at the time that the older sibling was not making eye contact with the first respondent and appeared to turn its head away from her. The first respondent did not accept this. She could not explain why neither she nor the second respondent attended at the emergency paediatric appointment fixed for 26 June 2016 to address this concern.

(6) The first respondent accepted she only saw the older sibling once after the placement ended, notwithstanding that the arrangements were changed to accord with her preferences that all of the proposed contact sessions include the second respondent. She accepted that this demonstrated a lack of commitment to the older sibling. In relation to the observation by Catherine Stewart that the first respondent did not engage, the first respondent did not remember stating to Catherine Stewart that she didn't want to work with Gloucestershire social services anymore.

[323] She was also cross-examined on photographs showing the state of the abandoned tenancy in Gloucestershire. She accepted these showed items belonging to her. She denied having refused a midwife entry to their flat on the basis that it was too cluttered.

[324] She was questioned about a number of statements in her own and Kerry Parsons' affidavits. She accepted that Talia Underwood had helped her to challenge something said by David Shaw. She denied having told the second respondent's family about his drinking. She accepted that she knew from about 17 November 2016 of the petitioners' social workers' plan for the child to be accommodated. She also accepted that Kerry Parsons told the respondents at that time to get legal advice. She knew from 17 November 2016 that she could attend meetings in relation to the child and put her view across. She did not accept

the description in Kerry Parsons' affidavit of the second respondent being aggressive. She could not explain why she did not attend the TCPCC on 18 November 2016, other than to say she didn't have money to attend. She did not dispute that Kerry Parsons had offered a refund of the bus tickets. She also accepted that after the TCPCC Kerry Parsons came out to the flat a few days later to tell her what had happened. The first respondent also eventually accepted that the petitioners' social workers had to take into account mental health issues and that this was not something they could ignore. She didn't really understand this at the time.

[325] In respect of the first respondent's preference for a home-birth, in her evidence the first respondent struggled to understand the nature of the risks and concerns about this. She simply stated that at the child's due date, she didn't think a home-birth would be very much of a problem. She struggled to understand that, as at November 2016, no one would know if the child would go full term. She also struggled to understand what it meant for her ante-natal care to be consultant-led. She accepted that Kerry Parsons repeated her advice for the respondents to get legal advice.

[326] She was also asked a number of questions about the police report relating to the second respondent's suicide risk. A number of file entries relating to money concerns in December 2016 were put to her, and the first respondent accepted she had difficulty budgeting. In relation to missed ante-natal appointments, the first respondent stated she could remember missing only one of these. A series of entries inconsistent with this were put to her. In respect of one of these, she suggested she had attended but had been told there was no appointment on that date. Again, this was an unsatisfactory passage of evidence and the first respondent could not recall the detail of these meetings. She maintained she attended some of these; for others she simply could not explain her

non-attendance. Furthermore, it was put to her that by mid-December 2016 she had missed three meetings and that she was aware by then that non-engagement was a cause of concern to the petitioners' social work department. She accepted she could have engaged, but that she did not do so. She also accepted she could have engaged with Kerry Parsons, even if the second respondent chose not to do so. She could not explain the episode in early January 2017 where she had sent some texts and had maintained that social work should not have had her mobile number.

[327] Returning to the question of a home-birth, the first respondent accepted that she had maintained at the time, that is in January 2017, that she was going to have a home-birth "no matter what". She struggled to appreciate how this could be dangerous for the child or to understand the increased risks of a home-birth. She believed if there were any difficulties that she would have had time to go to the hospital. She also accepted that in some of her texts at the time she had said that no midwife would be allowed to attend her home-birth. She imagined that paramedics and doctors could attend instead. She could not really explain why she refused to contemplate a midwife being present. She accepted that she was aware when the second respondent refused to give Wendy Johnstone access for the purposes of assessing suitability of the flat for a home-birth. She explained this was due in part to the fact that the front room needed repairs and she was worried that it would be said that it was not suitable. In respect of the subsequent attempts by the midwife to gain access, and an occasion when the police may also have been in attendance, the first respondent could not explain why she herself did not engage or grant her access. She was quite content with the fact that the second respondent had denied access.

[328] She ultimately accepted that the social workers had to do more than peer at her through the window and that it was not enough for them to see her through the window. In

respect of her comment about "stupid little meetings", she accepted that in fact these were important meetings but that she had chosen not to go.

[329] She was taken to many more entries demonstrating attempts by social workers to meet with her and the obstructiveness or non-engagement on the part of the respondents. Her answers varied between not remembering the events the file note referred to, or having no explanation, but otherwise being content with the position she and the second respondent had adopted at the time. In relation to meetings specifically about the child, such as child protection case conferences, the first respondent accepted that she could have attended and put forward her case, but that she did not do so. She denied the incident where the petitioners' social workers had provided her with bus tickets which had subsequently appeared on eBay. This was, in her view, just the social work department making mischief for her.

The evidence of the second respondent

The second respondent's affidavit

[330] The second respondent described his background. He denied being brought up in a violent household. His parents argued, but no more than this. His parents separated when he was a child and he described a somewhat peripatetic childhood staying from time to time with his mother, with a cousin, with his father and with an aunt. He came to know the first respondent, who was friendly with one of his nieces. He was unaware that she was on a care order when they started their relationship.

[331] He referred to the older sibling's premature birth, following a meeting with Gloucestershire social services which he described as hostile. He referred to the time the older sibling was in an incubator in a special care baby unit. He and the first respondent

visited the older sibling in hospital regularly, although he went less often than the first respondent because of family concerns (which included his mother's ill-health and dialysis treatment). At a later point, he explained that the respondents were allowed to see the older sibling every day in hospital and that he went most times unless his mother was really ill. He described being able to change, wind and feed the older sibling when it was in hospital and being shown how to feed it through a feeding tube. He had also bathed the older sibling once or twice.

[332] He echoed the first respondent's evidence that she was told she would get to stay in a mother and baby unit and that the foster care accommodation was not adequate. He was not allowed to visit her there. He was allowed to see the older sibling twice a week at a contact centre on his own, for between one and two hours, and a third time he was allowed to see it in the company of the first respondent. He described playing with the older sibling, and cuddling and feeding it as well as changing its nappy and winding it. He explained that the older sibling was still small and fragile at that stage. He was also allowed to see the first respondent for four hours a week during the foster care placement. This level of contact continued for a few weeks. He then referred to two occasions when the first respondent was "stranded" by the foster carer driving off without her. After that she and the first respondent started living together, which he believed was at the end of May 2016. He said that, so far as he can remember, contact was reduced to once a week at that point and stopped by the beginning of June.

[333] He referred to meeting Catherine Stewart whom he described as explaining that she was going to assess the respondents together to see if they could have the older sibling live with them. He described the situation then changing, with the first respondent being assessed on her own. He described a first meeting with Catherine Stewart at his mother's

house in order to obtain information. He explained that in the second meeting he had on his own with Catherine Stewart, he felt intimidated by her and did not go back. She had asked him a lot of questions about his mental health during their second meeting. She did not offer help but, in his view, went on about his health and his other children and his parents. Catherine Stewart had not explained what the second meeting was about. He did not believe that she explained properly to him what she was doing. If he had been given a chance to have a parenting capacity assessment in respect of the child, he would have cooperated. He did not accept that he and the first respondent could not look after the older sibling.

[334] He explained that over the years he had had difficulty with his mental health. He was not aware of an actual diagnosis. (At a later point, he mentioned his GP in England in 2015 advising him of a diagnosis of borderline personality disorder having been made in 2008.) He had also been diagnosed with depression and anxiety. Prior to moving to Gloucester, he had seen a psychiatrist in Scotland; in Gloucester he had a community psychiatric nurse whom he saw regularly. He also referred to having a community psychiatric nurse when he returned to Scotland but not now having any support of this kind. He described taking antidepressants and that, at the time of the affidavit, he visited his GP about once a month for a check-up. He felt that during Catherine Stewart's assessment she had some understanding of his mental health but that this was not followed through. He felt his mental health was used against him.

[335] He was very angry about the incident when his paternity of the older sibling had been doubted. He required to take a DNA test and he repeated how "very angry" he was with Gloucestershire social services. In his view, this was just another example of Gloucestershire social services not accepting things he had said. He felt they twisted what

he said to suit what they wanted to think. He did not get on well with them and ultimately submitted a complaint about Catherine Stewart and about how the older sibling was being looked after in foster care. He felt he was being punished, not helped, by Gloucestershire social services for his mental health problems. At no time had he or the first respondent threatened to kidnap the older sibling.

[336] He referred briefly to the ending of the foster care placement and that this occurred when the foster carer drove off and left the first respondent on her own. He and the first respondent began living together at that point.

[337] He referred to the adoption of the older sibling and not opposing that application. He was aware of the adoption application but he had no money and the court was too far away to go. He also referred to the first respondent becoming pregnant with the child while they were still living in Gloucester. They travelled to Scotland together on 18 October 2016 to see his mother in Fife, who was terminally ill. Their plan had been to return to Gloucester but, after his mother's funeral on 9 November 2016, there was some discussion with his family members who indicated they would support the respondents. They decided to remain in Scotland. They did not conceal their intention from anyone. They had not told Gloucestershire social services when they were going to Scotland, because they did not at that point intend to reside permanently in Scotland.

[338] He referred to the first respondent's plan for a home-birth. In his view, this was a decision for her. He was disparaging of the health professionals telling the first respondent about a risk of bleeding, because she had had significant bleeding after the birth of the older sibling and had required a blood transfusion. In the end this did not happen.

[339] He referred to Kerry Parsons' visit to them while they were staying at a relative's house on 10 November 2016. His mother's funeral had taken place the day before. He could

not recall the purpose of Kerry Parsons' visit but she stated that she would like to keep the respondents and the child together as a family. He referred to Kerry Parsons coming regularly to the flat for meetings, initially on a weekly basis and latterly more frequently. In his view, Kerry Parsons was putting words in the first respondent's mouth and twisting things. He also objected to her reference to an allegation made against him in England (one infers this was the allegation of sexual assault against a younger relative). The second respondent described challenging Kerry Parsons about this; stating that this was untrue and thereafter he "banned" Kerry Parsons from the flat. He referred to other social workers coming to the flat but also refusing to let them in. On one occasion, they did not have their identification badge; on another occasion police officers attended with social workers. The second respondent refused them entry, but the first respondent spoke to them at the door. He did not recall going to any meetings at the petitioners' social work offices, although he accepted the respondents had received some letters advising of forthcoming meetings. He did not attend because of the way Kerry Parsons had spoken to him and he felt intimidated by her. He found her "high-handed and arrogant" and she would not listen to him. He repeated his perception that things he said were twisted and used against him, by Catherine Stewart and by Kerry Parsons. He referred to the change of attitude of Kerry Parsons, within a week, departing from her assurance to keep the respondents and the child together as a family to intending to take the child into care from birth. He did not understand by what process this would occur; nor did he expect that the child would be taken away at birth.

[340] He referred to the two letters sent by his agents, the May letter and one in June 2017. He wished to discuss contact with the child. The first letter was not replied to. The second letter prompted a meeting on 19 July 2017 with Debbie Adamson in the petitioners' social

work offices. Again, he felt trapped and intimidated. She asked about whether he was obtaining help for his mental health issues. He recalled asking for a Children's Hearing at about this time but not going along to it. His father was terminally ill at about this time and died on 1 October 2017.

[341] He referred several times to his antipathy towards Kerry Parsons; his perception was that she made false statements and twisted things that happened in the past. He was angry at having to keep challenging the same false allegations. He was made to feel he could not win and found it very hard to deal with the petitioners' social workers because, if he did not agree with them, they would say he was being hostile and not accepting what happened in the past. However, in his view, what they wished to accept from the past was hearsay or from old records or was just wrong.

[342] He described the first respondent going into labour, calling 999 and the ambulance arriving. Paramedics confirmed she was in labour; the first respondent agreed to go in the ambulance to the hospital but this was stopped by the police to confirm the first respondent was in the back. This delayed the ambulance by 10 minutes. He described the child's birth and how each of the respondents got to cuddle it, hold it and have a few photographs taken. The next thing he knew, however, was that the child was taken away; the papers were served at that point and the respondents were left sitting in the room shocked and upset. The first respondent had only a tiny tear which did not require stitching and they decided to leave. At that point, Kerry Parsons and Wendy Johnstone arrived. While he was in the room on his own, Wendy Johnstone entered and shut the door with the result that his back was against the wall and she was invading his personal space. She and Kerry Parsons were standing too close to him and he felt very uncomfortable. They presented the court papers but he did not understand what these were at the time, although he was told of the

condition of no contact. He started shouting; security personnel were called and he left. He felt threatened and intimidated by the whole process. Neither he nor the first respondent had had any contact with the child after that point.

[343] He referred to receiving various letters about the second and eighth working day hearings. He did not know what these were, as the system in England was different. He consulted a lawyer about the beginning of 2017. This was about the false allegations against him in the papers and which he wished sorted out. He saw the lawyer for a couple of weeks but did not find this helpful and stopped going. He stated the lawyer did not provide any information about what might happen in the hospital about the child or what the respondents could do. It was too upsetting for the first and second respondent to discuss what had happened. He was upset his mother was not there. He felt very low and described going to the doctor to get help.

[344] He was highly critical of the fact that no social workers visited him after the birth of the child. In his view, the petitioners' social workers failed to engage with the respondents after its birth. The respondents were not given any support at all. He referred to attending a meeting on 19 July 2017. By this point he had seen a solicitor and she had advised him to go. At about the same time his father fell ill. Apart from this meeting, no social worker came to visit the respondents between the birth of the child and 20 July 2017. While there were some phone calls with the first respondent, there were no visits and no attempt to engage with the second respondent at all. He felt that the petitioners' social workers used his mental health against him.

[345] He referred to his four older children by four different mothers and with whom he now had no contact. He had had some contact with two of them. He described one coming to visit him in England, until his sister's children came to live with him. The second child he

had seen once or twice after it was born. He described going to a solicitor to ask about contact but nothing was achieved. He was young and it did not occur to him to take the matter to court. In respect of three of these children, he had separated from their mothers by the time of their births. The father of the mother of his third child gave him death threats. The mother of his fourth child reported him for domestic abuse, although the matter was dropped. He denied assaulting her at all.

[346] He referred to his criminal convictions. One of these was for drink-driving while on a provisional licence. The other was being in possession of an offensive weapon, namely a baseball bat, in 2010. He referred to the charge of domestic assault of his former partner, the mother of his fourth child. While he had appeared in court, the case was thereafter dropped.

[347] He referred to being cross because the health visitor had passed on his phone number to the petitioners' social workers without his permission. He described having a "very poor" relationship with the petitioners' social workers after he made a complaint about them in 2017. Part of this complaint related to the statement that his mother was a risk, notwithstanding that she had died in October 2016. He referred to an incident where out of hours social workers came to the house on 19 February 2017 to ask if his mother lived there. This upset him because she had died several months before.

[348] He stated that he did not know anything about the permanence procedure and could offer no comment on that. He denied that there was no one else in the family who could look after the child. He referred to a married cousin living in Fife with no children who might be able to look after the child. He asserted that the petitioners' social work department never looked into this.

[349] He confirmed he had had no contact with the child since birth. He referred to phoning the petitioners' social work department on one occasion to seek contact but he

never heard back. He also referred to the two letters, in May and in June 2017, sent by his agents requesting contact. The second letter led to the meeting on 19 July 2017 with Debbie Adamson.

[350] He concluded that the petitioners' social workers never wanted the respondents to have care of the child. They always spoke to him harshly and proceeded on incorrect information or without any information. The petitioners' social workers never tried to involve him in the care of the child and he was never assessed as a possible carer.

Examination in chief

[351] There was extensive examination in chief, although with no particular order to the topics taken. In so far as he was aware, neither Gloucestershire social services nor the petitioners had contacted his GP for a report into his mental health. He confirmed that after the birth of the older sibling he was aware of the possibility of contact, but did not exercise this because his mother was unwell. As at late May and June 2016 she was in hospital three days a week and mostly in bed. He was her unpaid carer. He obtained legal advice in November 2016. He had asked his solicitor to investigate the allegation against him, concerning his niece, but he felt she wasn't doing what he asked. He denied telling Wendy Johnstone on an occasion that the first respondent would not be attending an ante-natal appointment because he had a GP appointment. He would not say anything like that. He confirmed the several contacts he had with Kerry Parsons in November 2016. He could not remember receiving a letter about the 72 hour planning meeting after the birth of the child. He agreed with the conclusions in the curator's report.

[352] Passages from Kerry Parsons' and Debbie Adamson's affidavits were put to him. He described the occasion when Kerry Parsons referred to the allegation of sexual abuse. He

denied this but she insisted that it was "factual". He asked her for proof and she told him to be quiet. He felt Kerry Parsons was arrogant. He did not accept that he denied all of the concerns identified by her at that time. (There was no follow-up questions to explore with him which of those concerns he had or did accept.) On an occasion when Wendy Johnstone attended the flat and found no one home, he explained he was taking his dog for a walk. He disagreed with the assertion that any interaction with the petitioners' social workers was abusive. There was no social work contact after the birth of the child. He disagreed with the suggestion that he did not prioritise the child's needs. Under reference to the meeting on 20 July 2017, he was asked if he understood what a looked after child review was but he did not. (The reason for this was not explored with him, which was surprising given that he had legal advisers by this time.) He could not remember seeing the social work report relative to the Children's Hearing on 6 October 2017. He accepted that Debbie Adamson had tried to meet with him on three occasions after the birth of the child. He went to the meeting with her on 19 July 2017, because he wanted to find out if he could have contact with the child. He felt a little intimidated by her; it reminded him of what had happened at the hospital with two people in a room and one positioned at the door. He had explained to Debbie Adamson on 19 July 2017 that he would not attend the meeting the next day, because his father was unwell. He was dying of cancer at that time. He could not recall whether she had also discussed the Children's Hearing due to take place the following week. He provided Debbie Adamson with his contact details. He also confirmed he had put in a freedom of information request at this time. The purpose of this was to find out the information they had on him and the false allegation of sexual abuse. He denied having little interest in the child. He had a lot of interest in it. He denied controlling access to the first respondent. She was her own person. He accepted that he refused entry to social

workers but explained that, if the first respondent wanted to speak to someone, she could invite them in. He denied ever brandishing a knife and stated an entry in the documentation about this was incorrect.

[353] Under reference to passages in Tom Bochenek's affidavit, he referred to the circumstances in October 2016 and how the respondents hadn't intended to move up to Fife at that point. His mother died soon after. He denied that he refused to accept any concerns put to him by the petitioners' social workers, but there was no follow-up question to enable him to state which he did accept at that time. He confirmed having taken legal advice. On the question of a home-birth, he and the first respondent had discussed a home-birth. It was up to the first respondent. He confirmed making a complaint at the end of January 2017 about Kerry Parsons. The subject matter of this was data protection and the false allegation. He denied the observation that it was "all about him". No one from the petitioners' social workers contacted them after the birth or discussed supervised contact with the child. He accepted, however, that if this had been discussed he might not have remembered it. He would have signed a contract requiring him to behave in a certain way and he would have gone to supervised contact. He would have engaged if there had been a parenting assessment but none was offered after the birth of the child.

[354] Under reference to passages in Lesley Stevenson's affidavit he confirmed that he was not subject to social work intervention or any mental health order at the time he came to Fife in October 2016. He denied the description of him as "extremely hostile". He accepted he had been angry but denied being hostile or aggressive. The ending of the placement was as the first respondent described and it was a distressing time. He submitted a complaint. He felt his mental health was used against him. He was not abusive or threatening toward Kerry Parsons. He did not understand the description of him as "volatile".

[355] Under reference to passages in the affidavits of Naomi Gillard and Talia Underwood, he confirmed that he was with the first respondent when the older sibling was taken out of her arms. The first respondent had called the police to report the older sibling as kidnapped but the police did nothing. He supported her in her actions. In relation to the state of the Gloucester flat, he maintained his position that they had not left it as shown in the photographs. He was not permitted overnight stays in hospital with the older sibling. He had never spoken to the foster carer. Under reference to Dr Edward's report, he confirmed her meeting lasted between 30 and 45 minutes and that she saw the respondents together.

Cross-examination on behalf of the first respondent

[356] There was no cross-examination on behalf of the first respondent.

Cross examination on behalf of the petitioners

[357] He confirmed that the affidavit was all his own words. He denied having told Kerry Parsons that he had met the first respondent when she was 12. They met through his niece. He did not know the first respondent was accommodated. A passage from Kerry Parsons' file note was put to him, recording him stating this. His reply was that Kerry Parsons was twisting his words as usual, just as Naomi Gillard had done in Gloucester. He went further, and contended that Kerry Parsons was writing false information in her file note and had lied in her evidence in court. He maintained that he did not ask the first respondent for her address when they started their relationship and therefore did not know she was accommodated at that time.

[358] He refused to comment about David Shaw putting unflattering things about the first respondent's mother to her. He described David Shaw as hostile and raising his voice in the

way he was talking to him. He did not accept that he did not visit the older sibling regularly in hospital. He did. He had family problems. He did not accept that visits became less frequent or that there were days when the older sibling had no visitors. He became combative and he maintained he had visited the older sibling in hospital every day.

[359] In relation to the foster care placement, Talia Underwood had promised the first respondent that this would be in a mother and baby unit. The placement accommodation was inadequate. He had seen pictures of the hallway with mould on the walls. He had complained about this at the time to Catherine Stewart but Gloucestershire social services did not listen to him and would not speak to him. Every time they would say they would do something but then they wouldn't do anything. He felt that Gloucestershire social services used his mental health against him. This extended to Naomi Gillard and Catherine Stewart, as well as David Shaw. The foster carer had hassled the first respondent for being on the phone. He referred to two occasions when the first respondent had been "stranded" by the foster carer leaving a pre-arranged meeting without her. The police had been called on the first occasion. He had seen the foster carer take the older sibling from the first respondent's arms. It was put to him that he was aware that the older sibling resided with the foster carer and that, therefore, what happened could not be described as kidnapping. The second respondent cavilled with this proposition. He disagreed with this "to some extent". In his view it was a kidnapping. When the first respondent called the police to report this, he did not intervene to explain that the foster carer was taking the older sibling home.

[360] He explained feeling intimidated by Debbie Adamson because it reminded him of what had happened in hospital. He was intimidated by Catherine Stewart because of the way she talked to him. He denied resorting to a charge of intimidation with professionals

when they said things he disagreed with. It was put to him that Catherine Stewart was carrying out her professional responsibilities, which included conducting the parenting assessment. He maintained that she used his mental health against him. It was put to him that the questions she posed formed part of the assessment but he perceived this to be all about his mental health. It was for that reason he did not go back to any meetings about this. He would not have continued with the parenting assessment without a witness. He accepted he had walked away from that process.

[361] In relation to the English proceedings, he accepted that he had lawyers and that if he was unclear about anything he could have asked them. He appeared to accept that he could have asked Catherine Stewart why she wanted to meet with him; he repeated he felt uncomfortable with her. He accepted he knew she was involved with the older sibling. He maintained he always did his best by the older sibling and always told the truth. It was put to him that, if that were so, why would it matter if he did not know the purpose of these meetings, ie reflecting his position that he was not aware parenting assessments were being undertaken. He repeated he did not trust social workers. He denied putting his own needs first. He would not turn up to visit the older sibling if he had other appointments. When asked what would be more important than visiting the older sibling, he maintained his mental health and seeing his community psychiatric nurse. He could not change these meetings, as he would have had to wait months for a re-arranged appointment. He accepted he had not asked to rearrange these. These meetings were every fortnight and once per month with the community psychiatric nurse. It was put to him that the contact meetings with the older sibling were three times a week. The second respondent could only reply that they went down to twice a week and then to once a week. He was challenged that he missed all of these appointments on the basis of a monthly meeting for his mental health.

The second respondent explained he had other family problems as well. Nor had he asked his GP to change appointments. He needed to go every time and needed to take his mental health medication on a certain date. It was put to him he could attend his GP appointment but go at a different time (ie on the same day) to visit the older sibling. He rejected this: the contact centre was eight or nine miles away, on the edge of Cheltenham and he lived in Gloucester.

[362] Passages from the parenting assessment were put to him:

1) He initially refused to answer any questions about having no contact with his four older children, until directed to do so. He did not raise any court actions to obtain contact. He accepted that if he had wanted contact he could have taken steps and gone to court to do so. He explained that he did not take steps as he needed to sort himself out. He was asked if he was sorted out now, but he stated he wasn't. He was going through these proceedings and had depression and other stuff going on. He was challenged that, if this were so, how could he possibly have the child in his care, to which he replied he had not been assessed with it in his care. He did not consider himself sorted out quite yet. Notwithstanding this, he maintained the child would be safe with him. He did not see his other children because he did not speak to their mothers. He was unable to name them when asked and was unable to provide the ages of his four older children. He knew that one of them was in care.
2) He accepted he had a history of substance abuse for cannabis. He denied the positive sample for ketamine. He had had drinks with a few mates and they must have put this in his drink. He was not now denying the positive result; his position is that he never took that substance.

3) He did not accept the description of his engagement as "sporadic". He denied missing appointments with the health visitor or GP; he wasn't invited to any appointments. The first respondent did not invite him to any of her appointments. In relation to the diagnosis of a personality disorder, he had been told this by his GP. The diagnosis was of borderline personality disorder. He had had depression most of his life. It was put to him that these were Gloucestershire social services' concerns; he did not dispute all of these. The concern he did accept concerned his lifestyle. He accepted this could have been different. He could have gone to the contact centre. He explained that back then his lifestyle was totally different. The second respondent became upset during this passage of evidence.
4) He could not recall Catherine Stewart undertaking a second parenting assessment after the discharge of the older sibling from hospital. However, if it were recorded there were two attempts at such assessments, he accepted this. He did not agree with the concerns expressed about basic hygiene. He did not suggest that Catherine Stewart was making up false information; this was provided to her by Naomi Gillard. This included her lies about the first respondent being only 12 and the second respondent 20 when they met. He could not explain why Naomi Gillard would lie but maintained that these lies were in the paperwork. He acknowledged he refused to let Catherine Stewart into his flat. He didn't want social workers in the house. He was pressed that the professional would need to see the house where the older sibling would be living with him. He explained he would be moving away, just out of the area. He

ultimately accepted that he could understand why social workers needed to see the flat. He denied that he refused access because it was in a mess.

5) In relation to the positive test for ketamine, he accepted that he had not offered the explanation earlier (of it having been spiked). He volunteered that he knew some antidepressants contained ketamine. He believed it was spiked because he did not feel right and it wasn't a hangover. He accepted this was not included in his affidavit.

6) The topic of the declining number of visits to the older sibling while in hospital was again raised with him. He did not accept that he was engaging less and less with the older sibling. He was asked if the hospital staff were lying. He could not answer this; these events were nearly three years ago. He did not accept the proposition that if Catherine Stewart had recorded this in 2016, her information would have been more recent. He accepted he had only attended one of three possible meetings with Catherine Stewart. His mum was ill. He accepted that Catherine Stewart had some positive things to say about him. He then asserted he had missed only one appointment. He denied missing appointments because of his poor mental health; he missed an appointment because less than 24 hours' notice had been given. Four dates in March 2016 and others in May and June were put to him, all missed appointments. He did not deny that he missed these. He did not accept the proposition that he focused on his own needs and how professionals had wronged him. He did not accept that this showed a pattern of missed appointments with professionals and meetings concerning his children. He did not accept that he did not always behave appropriately with professionals. He was not aggressive at the hospital, as described by Catherine

Stewart. He could not explain why she would include this comment. He denied threatening to harm Catherine Stewart. She was lying about this. She twisted his words. He had never threatened her, in the way she recorded. Her negative comments were lies. He maintained to this day, that she used his mental health against him. He did not fully accept that she required to get information about this in order to undertake an assessment.

7) He did not accept he had a difficult childhood or that there was domestic abuse. He denied suffering at the hands of his mother's former partner. He acknowledged that from about the age of 13 he had moved around a lot.

8) In terms of contact with the older sibling, he had had contact on four of the five occasions offered during the placement. It was put to him that he was offered more contact after the placement ended, but he could not recall this. He accepted that it could be right that he had attended only one out of a possible 12 contact sessions with the older sibling. When contact was thereafter reduced from three times a week, he accepted he did not attend any other contacts.

[363] Notwithstanding passages in other affidavits recording his threat to kidnap the child, the second respondent denied ever planning to do so or making any telephone call to that effect. If it was suggested that the second respondent had ever said anything like this, this was another lie.

[364] He accepted his description of how the foster care placement ended (ie when the first respondent was out with the foster carer and the foster carer drove off while the first respondent was in the shops) was muddled. However, he denied that the first respondent was encouraged to go back or that the placement was held open for seven days. He did accept that contact was offered after the placement ended.

[365] Under reference to the photos of the flat in Gloucester, he accepted that some of the items shown belonged to him and to the first respondent. He maintained that the flat was not left in the state shown in the photographs. Someone must have gained entry.

[366] He was aware the first respondent had refused to meet with the midwife. In his view, this was her decision. If the midwife wanted to meet the first respondent, they could meet at hospital or somewhere else. He was content with her position about this.

[367] Some of the police information was put to him for his comment. In relation to the allegation that he had kicked a puppy to death or that there were concerns in relation to his treatment of an animal, he denied this. He knew there were allegations because of a dog screaming and he "got done" for it. He did not accept that an incident of kicking the dog had happened. He did have a puppy at the time. No dog had died. He had never been banned from keeping dogs. He received no notices and no paperwork and no dog had ever been taken from him. This was all false information. The first respondent was in the house at the time and she would be his witness. He could not answer who would make a false allegations about him.

[368] He was asked about an occasion in November 2016 where he had gone missing. His position was that he had gone for a walk. This was a few days after his mother had died. The passage in the file notes about his drinking alcohol and going missing were again put to him; he demurred from the suggestion that it was late at night. He did not agree he was continuously under the influence of alcohol at that time. He could not comment on the entry recording the first respondent reporting that he had been drinking. The first respondent was not upset because he had left; she was upset because he had gone for a walk. He denied that he had initially refused to leave the premises of the relative where he

was staying or to return the keys. This was false. The relative he was staying with was an alcoholic and was violent.

[369] He acknowledged becoming aware in November 2016 that the child had been placed on the child protection register. He did not become argumentative at this point. The relationship with the petitioners' social workers changed at that point but he attributed this to their generally bringing up the allegation of sexual abuse. He maintained that Kerry Parsons was not putting this to him as a "concern" but she had maintained that this was "factual". He repeated his evidence about the exchange with Kerry Parsons and her telling him to be quiet. He added that he told her about his human rights. He was upset at this time. His mother had died on 29th October and had been cremated on 9 November 2016. He accepted that Kerry Parsons told him at this time to get legal advice. In relation to the file entry recording discussion of the first respondent's mother moving to Fife, this was not said. This was a lie. He was taking legal advice about the false sexual allegation.

[370] The entry recording the second respondent attending at the petitioners' social work offices and being "aggressive" was put to him. He was not aggressive. He could not remember saying that Kerry Parsons would be charged with slander. He would not put it past Kerry Parsons that she had also fabricated this entry. It was put to him that he could have attended the TCPCC on 18 November 2016. He accepted he could have gone. He was still getting over the loss of his mother. He had a lawyer about this time. He accepted it would have been an option to instruct his lawyer to write a letter stating that he did not accept the allegation of sexual abuse.

[371] He accepted that Kerry Parsons had come out to the flat on 22 November 2016 to explain the outcome of the TCPCC but, he maintained, she spoke to the first respondent not to him. He accepted he understood there would be weekly child protection meetings

thereafter and that she had explained the child protection process. He also accepted that he had stated to her at that time that he had legal advice and that, if he did not understand what Kerry Parsons explained to him, he could have asked his lawyers if he were unsure about anything. He denied encouraging the first respondent to have a home-birth. The first respondent wanted this. He accepted that there was a child protection visit on 28 November and that the first respondent had had it explained to her, and she understood, some of the challenges of having a home-birth.

[372] The incident when he was suicidal and the police had been called was put to him. He denied ever using the word "kill"; he had suicidal thoughts. He had left before seeing the doctor on that occasion. He explained the police came to the house and saw that he was okay. Under reference to the file entry recording his relative reporting to the petitioners' social workers a concern that he was seeking money to buy alcohol, he accepted that the respondents were struggling with money at the time. He did not want cash from his family because he knew they would say it was for alcohol. This was a false entry and yet another allegation being made up about him. Some entries recording failures to attend ante-natal appointments were put to him for comment. Generally, he could not recall that far back and could not comment. He could not recall an occasion on 12 December 2016 when they were provided with bus tickets but failed to attend an ante-natal appointment. It was put to him that, given the difficulties with the birth of the older sibling, it was important for the first respondent to attend her ante-natal appointments. The second respondent's answer was that the birth of the older sibling was different from that of the child. However, he accepted it was important that she attended. He was referred to another occasion when the first respondent did attend, but he waited outside. For that reason, he did not know what had transpired. In relation to the missed appointment on 9 December 2016, he explained that the

first respondent was new to the area and still finding her way around. He disputed not attending on the 12 December. This was his birthday. He was outside having a cigarette. He could not comment if the first respondent had not been seen on that date. He did not ask her about this. When pressed, he explained that he was not her keeper. In relation to the child protection visit on 15 December 2016, when Talia Underwood came with Kerry Parsons, he remembered being there. The first respondent had stated that Kerry Parsons had no right to meet with her. He denied refusing to meet with social workers unless on his own terms. He denied disengaging generally with the process; he did not engage with Kerry Parsons.

[373] On 5 December 2016 the first respondent texted, stating that she wanted a home-birth and would not permit a midwife to attend. He did not see these texts and could not comment. He did not want the home-birth, it was the first respondent who did. He denied that the first respondent stated that she did not want a midwife present. Wendy Johnstone was not given access because she had come with Kerry Parsons. He would have let Wendy Johnstone in on her own. There was no danger to her. If Kerry Parsons came, and anyone came with her, they would not get in. In respect of the file note entry of 5 January 2017, recording that members of the second respondent's family were abusing him, he declined to state who this was. These were some of his family members. He accepted that the file note of the attempted child protection visit on 10 January 2017 was correct where it recorded the respondents' desire for a home-birth and their refusal to let the midwife in. Notwithstanding that Wendy Johnstone explained the purpose of the visit, to assess the flat for a home-birth and that this was compulsory, the second respondent maintained his position that so long as Kerry Parsons was present no one would be granted entry to the flat. He was pressed that all of this flowed from his refusal. The second respondent countered

that if Kerry Parsons had not been arrogant the first time, she would have been allowed into the flat. However, because of the way she had spoken to him, he had banned her from the flat. He was pressed as to why he did not, at least, allow Wendy Johnstone in to carry out the assessment. He countered that if he let Wendy Johnstone in then Kerry Parsons would want to come in too. He was prepared to forego any assessment just to ensure that Kerry Parsons could not gain entry; she was banned from his flat. He was pressed as to whether he had asked the first respondent her views on this. The first respondent told him that she didn't want the midwife because of Kerry Parsons; it was not just him who was refusing to let Kerry Parsons or the midwife into the flat. He did not asked the first respondent on that day because the first respondent was in bed. In any event, in his view Kerry Parsons had already made the decision that there would not be a home-birth. Even though he accepted that the purpose of Wendy Johnstone's visit was to assess the suitability of the flat for home-birth, and therefore no decision had yet been taken, he maintained that Kerry Parsons had already stated that a home-birth would not happen. In relation to another occasion when the police were called, he explained that he had a right to ban anyone from his property. He had banned Kerry Parsons. He maintained that the first respondent was aware at all times of his decision.

[374] The topic of the second respondent refusing entry to social workers other than Kerry Parsons was next explored. He accepted there was no reason to refuse entry to Sarah Braid, another one of the petitioners' social workers. On that occasion, the second respondent believed it was his birthday, the first after his mother's death and so a visit was rearranged for a few days later, on 13 January 2017. Two social workers returned but he refused them entry. It did not matter that he had not met Sean Patterson, because social workers had been banned from his property. He accepted that he could not have a problem specific to

Sean Patterson, because he had never spoken with him. He could not recall stating that he would refuse to allow health visitors in. Nor did he recall stating that "no one was getting in" or that someone would "lose their job" over this. He confirmed that he recorded meetings on his phone and had asked them to "smile for the camera". He disagreed that he was angry. In his view, Kerry Parsons was telling lies and social workers were harassing him. Any description of him becoming angry or ranting was a lie. Another attempted child protection visit on 18 January 2017 was put to him. On this occasion the social workers were Dawn Page and Claire Gordon. He explained that because one did not have her badge, he did not have to let them into his flat. He was asked if that was more important than allowing them to undertake a child protection visit in respect of the child. He replied, how was he meant to know if she was a social worker if she came without her badge? The first respondent did not want to speak to them. He sidestepped the question that the absence of the badge was simply an excuse not to engage. He maintained his position that they were simply not going to be getting in. He had other problems to deal with. In relation to the scan rearranged for 23 January 2017, he could not explain why the first respondent did not go. He accepted it could be dangerous if these ante-natal visits were missed. In relation to other missed appointments, the second respondent explained that it felt like harassment. It was explored with the second respondent that it would have been better for him to focus on working with the professionals to safeguard the child, and that it was important to allow social workers entry for that purpose, but he simply repeated that Kerry Parsons had been banned.

[375] The second respondent confirmed that he had complained about Kerry Parsons and this had prompted a visit by Tom Bochenek to their flat on 1 February 2017. Tom Bochenek had agreed to send other social workers. However, notwithstanding this, when two

different social workers attended the next day they had been refused entry. The second respondent explained he hadn't been told about this child protection visit. He was in but refused them entry. Another entry was put to him concerning bus tickets. The second respondent denied saying what was recorded there by Sandra Kindreich. This was another lie about him in the notes. He could not recall why the first respondent did not attend another ante-natal appointment, notwithstanding these bus tickets had been provided. He could not explain the non-attendance at other ante-natal appointments on 6, 8 or 13 February 2017. He denied selling the bus tickets provided. He insisted that the bus tickets were still in the drawer of his house. He accepted they were not used to attend the appointment. He explained that he did not attend the child protection case conference on 6 February, because he had a dental appointment. In relation to the child protection home visit attempted on 10 February 2017 by Sandra Kindreich and Sean Patterson, he refused them entry because they would go back to Kerry Parsons. He was asked why he didn't focus on the unborn child rather than Kerry Parsons, but he said these were just conversations about all of the lies. He stood by his description of Kerry Parsons as the "most annoying" person he had ever met; she was arrogant. He remembered getting forms to complain about Kerry Parsons but he could not remember if he sent these. He maintained that Sandra Kindreich was also harassing him. He gave similar reasons for refusing entry on 14, 17 and 19 February 2017 by other social workers. The first respondent was also refusing to give access. He denied, however, that she had told them to "piss off". The first respondent never swore. When asked if this was another example of a social worker putting down something false, the second respondent maintained that the first respondent never swore. He also refused entry on 20 February 2017. He could not explain the missed ante-natal appointment also on that date. He denied that he was aggressive on 21 February

2017, when a further child protection visit was attempted. The file note described the second respondent as refusing entry on that date, too. He was pressed that if he were putting the interests of the child first, he would have permitted social workers to check on the first respondent. The second respondent said this was up to the first respondent.

[376] Turning to the child's birth, the passage from one of the affidavits was put to him, which described the first respondent meeting on her own with Kerry Parsons but also described that her demeanour changed when the second respondent then came into the room. He could not explain the first respondent's change of demeanour. He denied saying in hospital that he would sue. As for any follow-up medical appointment after the birth of the child, it was up to the first respondent to decide if she would attend. He maintained that he did not stop the first respondent going to this appointment. He did not attend with her, because he had his own appointment.

[377] The second respondent maintained that no one from the petitioners' social work department informed him of any meetings after the birth of the child. He was challenged about receiving letters from the Children's Reporter, who was responsible for some meetings. He allowed that he might have received one letter. After two such letters were put to him, from his own inventory of productions, he accepted that he had received them. He resisted the proposition that the respondents had received letters for each of the hearings. He did remember getting some letters. He maintained the respondents only received reports after the meetings had been held. He was asked what he did, given his position that the respondents received reports of meetings only after they had happened but never had notice in advance, and he answered that he went to see a lawyer. He was challenged on this: if he was dissatisfied with anything contained in the report following a meeting, he could exercise a right of appeal. (The terms of some of these letters specifically

advising of a right of appeal were put to the second respondent.) The second respondent explained that his father was dying of cancer in hospital. He died on 1 October 2017. He was walking every day to see his father in hospital in Leven. He ultimately accepted, however, that if he disagreed with anything stated in a report or decided at a meeting he could have appealed. While he eventually accepted that he did receive letters advising of meetings, the second respondent stated he didn't know what these were. He conceded that he was not now stating that the respondents did not attend meetings because they had not been told about these in advance of them. In relation to the Children's Hearing he had called, scheduled for 28 July 2017, the second respondent maintained that his solicitor did not receive a letter advising of the hearing. He was pressed that, having called such a Children's Hearing if this had taken place unexpectedly what steps he took. The second respondent didn't answer directly. He stated he was kind of confused. He was taken to his agents' letters of May and June 2017 and his meeting with Debbie Adamson on 19 July. He knew the outcome of that meeting was that Debbie Adamson recommended against contact at that time. He was pressed again as to why he did not appeal after that; the second respondent's position was that things were completely different from how they were in England. He ultimately accepted that, if he was confused about the process or dissatisfied with the result, he could have asked his solicitor about this.

[378] In relation to Debbie Adamson's attempts to contact him in the months after the birth of the child, the second respondent accepted he did not go to meetings she had arranged. He understood her purpose in contacting him. He conceded that she was not harassing him. In relation to her telephone call to him, he was annoyed but he could understand why she had to call. In relation to letters he received about the Children's Hearings in March and April 2017, the second respondent accepted he forwarded these to his solicitor. He would

not accept that his solicitor would go through these with him, stating only when she wasn't busy with other clients. In respect of the respondents' communications in July 2017, asking the petitioners' social work department to remove their contact details, the second respondent was a little evasive in his evidence. They did not need his contact details if they were sending out letters. The second respondent asked the first respondent to send a text on his behalf.

[379] Returning to the meeting the second respondent had with Debbie Adamson on 19 July 2017, he agreed with her description that this was a good meeting. She wasn't harassing him. She was pleasant. He was treated fairly. In relation to his problem with alcohol, noted at that time, he put this down to having just lost his mother but he should have sought help. He agreed that he had attended at this meeting because his solicitor told him that he should. It was put to him that the petitioners' social work department had called or contacted him and offered other meetings and, if he had engaged with that process, he could have discussed his concerns that he had by way of contact much sooner than 19 July - a proposition the second respondent accepted.

[380] The issue of social workers' concerns about the second respondent were further explored with him. While he referred to his mental health being used against him, it was put to him that there were many other concerns. He sidestepped this question, explaining that he was medicated and did not understand why his mental health was continually referred to. He was angry about the false allegation of sexual abuse being repeated in paperwork. He did not concede that others might perceive him as being aggressive, not just angry. He referred again to individuals such as Wendy Johnstone invading his personal space. The way everyone spoke to him was upsetting. He was shouting on the maternity

ward at Wendy Johnstone because she had shut the door and invaded his personal space. He felt threatened and intimidated.

[381] In relation to his assertions in his affidavit that he did not understand letters (when he did acknowledge receiving these), it was put to him that he was sufficiently able to pursue a freedom of information request with the petitioners at the same time. He explained he was just asking for stuff. The terms of the letters offering appointments were put to him and he accepted their terms, including those that stressed it was important for him to attend. He accepted that assertions in his affidavit that he had "no knowledge" of these meetings were not correct. He accepted that he was mistaken.

[382] The possibility of kinship carers from the second respondent's family was explored with him. He accepted that a cousin mentioned in his affidavit had not come forward to the petitioners at the time; this was because she was going through some family problems. He accepted that he was given multiple opportunities to attend at Children's Hearings to ask for contact, but that he did not attend any of these. This was the case even in respect of the Children's Hearing he had called through his solicitors. The second respondent referred again to the fact that his father was in hospital. He accepted he did not exercise any appeal rights in respect of these hearings. In respect of the assertion in his affidavit that the petitioners' social workers were "always harsh", he accepted that Debbie Adamson was fair; that Tom Bochenek was okay; and that Sandra Kindreich was nice. He did not accept that he could not look after the child safely if it were returned to him. It was put to him that he could not safely look after the child without support. The second respondent appeared to accept this, but stated that he would get the necessary help. He accepted that he would be a stranger now to the child. He accepted that it appeared to be settled and doing well, on the basis of the updates provided. He disagreed with the proposition that if the child was

settled and thriving where it was, it would be better for it to stay. He did not accept the proposition that it would be better for the child to be with its older sibling. His position was that he had not sent the child down to England. He conceded that if the child were returned to him, it would be separated from its full-blood sibling, ie the older sibling. He accepted that this would not be a good thing. He maintained that the child would thrive in his care, too. It was put to him that he would first have to have contact with the child, which the second respondent accepted. However, he did not accept that he had been unable to maintain contact with the older sibling after the ending of the placement. This was not relevant. He insisted he would always turn up for contact and that he would be able to work with the professionals. He rejected the proposition that he was unable to take criticism from social work professionals. He rejected that his pattern of behaviour was to complain about social workers if they raised issues he didn't like. He complained about things that weren't true. Even if he did not like the replacement social worker, he said he would work with them.

[383] Finally, it was put to him that he had not turned up for the older sibling; that he had not gone to meetings in relation to the child; he had not always allowed access to the property for child protection or other visits; he had not gone to looked after child reviews, core group meetings or Children's Hearings. The total sum of his involvement had been a single meeting with Debbie Adamson in July. The second respondent asserted that it would be different.

[384] There was no re-examination and the second respondent closed his case.

Statutory provisions

Parental rights and responsibilities

[385] The petitioners ask the court to make a permanence order in respect of the child. This would extinguish the respondents' parental rights as laid down in the Children (Scotland) Act 1995 ("the 1995 Act").

[386] The legislative framework for permanence orders is found in Part 2 of the Adoption and Children (Scotland) Act 2007 ("the 2007 Act"), particularly sections 80 (defining a "permanence order"), 81 (stipulating the mandatory provisions), 82 (containing the ancillary provisions), 84 (the conditions applicable to a permanence order) and 87 (the effect of an order on parental rights). In terms of the mandatory provisions, the permanence order vests in the local authority both the right to regulate the child's residence (until the child is 16) and the responsibility for the provision of appropriate guidance to the child (until the child is 18). In terms of the ancillary provisions, the permanence order may vest other parental rights and responsibilities in the local authority or some other named person. In this case the petitioners seek an order transferring <u>all</u> parental rights and responsibilities to the foster carers of the child.

[387] While the structure of section 84 has attracted criticism, it is now well settled that section 84(5)(c)(ii) contains a threshold test requiring proof (insofar as relevant to the facts in this case) that "a child's residence with the person is, or is likely to be, seriously detrimental to the welfare of the child" ("the threshold test"). This is a factual test in which the court is the primary decision-maker as to whether the matters relied upon by the local authority are established. The court's role is not to assess the reasonableness or otherwise of the local authority's conduct. Nor is it bound by the local authority's views or the grounds it advances. It is only if that threshold test is met that consideration of subsections 84(3) and (4)

arise. Logically, it makes sense first to consider subsection 84(4), which is that "the court is to regard the need to safeguard and promote the welfare of the child throughout childhood as the paramount consideration" and then subsection 84 (3), precluding the court from making a permanence order unless "it would be better for the child that the order be made than it should not be made". For convenience, I shall refer to the matters in subsections 84(4) and (3) as "the welfare principle" and "minimum intervention principle", respectively.

[388] In submissions parties referred to a large number of authorities, which I have considered but need not set out in this opinion. The most authoritative discussion is that by Lord Reed in the UK Supreme Court in *West Lothian Council* v *B* [2017] UKSC 15; 2017 SLT 319. I follow, but do not here quote, his authoritative and comprehensive discussion, particularly at paragraphs 18 to 29, on the hierarchy and relationship between the different elements of section 84. The burden of proof rests on the party seeking the order (paragraph 26). The court must be satisfied of the likelihood of serious detriment to the child's welfare (paragraph 19); the future likelihood of the child must be based upon findings in fact and those findings must be established on a balance of probabilities (paras 22 to 25): proof simply of allegations or suspicions would be insufficient. (Lord Hope's observation in *In re J (Children) (Care Proceedings Threshold Criteria)* [2013] UKSC 9 at para 84, to the effect that "a prediction of future harm has to be based on facts that have been proved on a balance of probabilities" is apt.) Furthermore, detriment must be "serious". It is not a case of a child benefitting by being brought up elsewhere (para 27). Finally, if the court finds that the threshold test is satisfied it should be clear (per para 29) in respect of the following: (1) what is the nature of the detriment which the court is satisfied is likely if the child resides with the parent; (2) why the court is satisfied that it is likely; and (3) why the court is satisfied that it is serious. Accordingly, mere detriment to a child is insufficient to satisfy the

"seriously detrimental" element in the threshold.

[389] In this context, I have also had regard to the recent discussion of the majority of the Inner House of the threshold test (in *City of Edinburgh Council* v *GD* [2018] CSIH 52) and of the stage two test (in *North Lanarkshire Council* v *KR* [2018] CSIH 59, at paras 62 to 70), as well as that of the Sheriff Appeal Court in *Fife Council* v *KPM* [2018] SAC (Civ) 25).

[390] In Convention terms, interference with family life by the removal of a child from its natural family can only be undertaken by the state when strict criteria are satisfied: (*per* Lord Reed in *West Lothian Council* v *B*, *op cit*, at para 27, under reference to the decision of Lord Templeman in *In re KD (a Minor) (Ward: Termination of Access)* [1988] AC 806 and in *In re L (a Child) (Care: Threshold Criteria)* [2007] 1 FLR 2050. Compliance with the statutory provisions should suffice to respect the respondents' Convention rights. Given the terms of the curator's report, I raised with counsel in the course of submissions immediately following the proof, whether a discrete Article 8 point was advanced and, if so, how and at what stage any alleged breach of Article 8 was to be taken into account in the application of the statutory tests. Counsel confirmed that no such point was taken. On that basis, I disallowed the second respondent's subsequent attempt to raise this, for the first time, in the last set of submissions heard in late September and which were for the limited purpose of permitting counsel to make submissions on two very recent appellate-level decisions.

[391] As the Orders also seek authority to adopt, it is necessary to consider whether the conditions in section 83 of the 2007 Act are met, as one is directed to do by section 80(2)(c). In this case, the respondents do not consent (as they might have done for the purposes of section 83(1)(c)(i)). Accordingly, the court must consider whether to dispense with their consent (as provided for in section 83(1)(c)(ii)), if one of the grounds in section 83(2) is met. In this case, the potential ground is that in section 83(3), (via section 83(2)(c)), which, read

short, focuses on a lack of parental capacity which is likely to continue. The court may only dispense with parental consent if satisfied that the welfare of the child requires it and the court is obliged to consider all options for the care of the child which are realistically possible.

[392] Section 14 of the 2007 Act specifies considerations governing the exercise of the power to grant authority to adopt. If the incapacity ground in section 83(3) is met, the court must have regard to section 14 of the 2007 Act when deciding whether to make the order. This means that in reaching its decision as to whether to dispense with parental consent on this ground, the court must have regard to the need to safeguard and promote the welfare of the child throughout its life as the paramount consideration (see, eg, *North Lanarkshire Council* v *KR* at para 62).

[393] I have also had regard to the helpful guidance on these provisions in *Fife Council* v *M* 2016 SC 169 at paragraphs 57 to 68 and in *R* v *Stirling* 2016 SLT 689; [2016] CSIH 36 at paragraphs 16 to 18 and 26 to 29.

[394] It respectfully seems to me that the court considers the threshold test (in section 84(5)(c)(ii)), followed by the application of the welfare and minimum intervention principles (ie considering the matters in subsections 84 (4) and (3)). If it has determined to make a permanence order it is only then that it falls to consider whether authority to adopt under section 83 should also be granted. That approach, it seems to me, is consistent with the structure and language of sections 80 to 84, especially section 80 (3) and section 83 of the 2007 Act.

[395] Counsel were agreed that the principal dispute in this case concerned the threshold test, namely: Whether the court was satisfied that it would be, or would be likely to be, seriously detrimental to the child's welfare if it were to be returned to live with its parents.

To the extent that there was a dispute between the parties on the law, there were two incidental questions:

1) Whether the court was entitled to rely on the same evidence in considering the question of whether to grant authority to adopt as to the question of whether to make a permanence order. While that puts the matter generally, the specific issue was whether it was permissible to have regard to the evidence of Dr Edward or the evidence concerning the child's current placement for the purposes of the threshold test (as the petitioners contended but the respondents resisted); and
2) Whether, the respondents fell to be considered collectively as a couple, as well as individually, in the application of the threshold test.

Submissions

[396] In addition to oral submissions at the end of the evidence, parties put in full written submissions (collectively, these exceed 120 pages). Parties also submitted short written submissions after the proof in respect of the second incidental question I have identified above. Furthermore, after the issue of several appellate level decisions, further written submissions were submitted (totalling 40 pages) and I heard further oral submissions commenting on these on 28 September 2018. I have considered all of the parties' oral and written submissions. The points the parties advanced will be apparent in my discussion of the issues presented, which I now turn to do.

Discussion

Preliminary comments

[397] One of the notable features of this case, at least in the way it was conducted before me, was the emphasis on the process by which Gloucestershire social services and thereafter the petitioners took the steps they did. The respondents focused their efforts on criticising the inadequacies, as they saw it, of the support offered by Gloucestershire social services and the petitioners. They relied on the criticisms made in the curator's report concerning the petitioners' conduct in seeking an interim child protection order from birth with a condition of no contact. They also advanced a large number of criticisms about the foster care placement for the first respondent and her baby (ie the older sibling) in England, and they assert the unfairness of how they have been treated. As a consequence, the petitioners also focused their efforts on refuting these criticisms and undertaking proof of a detailed chronology of the interactions between the respondents and Gloucestershire social services as well as the interactions between the parties to these proceedings. A great deal of the petitioners' proof was directed to establishing a lack of engagement on the part of the respondents under reference to the whole history of the respondents' dealings with the petitioners and, before them, with Gloucestershire social services. In the light of this substantial body of evidence, there is a risk of focusing on the reasonableness (or otherwise) of the process, rather than on whether the statutory test which the petitioners are obliged to meet has, in fact, been met. The case of *West Lothian Council* v *B* 2017 SC (UKSC) 67; [2017] UKSC 15 is a salutary reminder that the proper issue is whether the statutory tests have been satisfied, and not the reasonableness or otherwise of the local authority's prior conduct or decision-making. In any event, that issue may be the subject of other

proceedings, namely the respondents' claims in the sheriff court for damages for breach of their Article 8 rights.

Issues of credibility and reliability and objections to evidence

The credibility and reliability of the Gloucestershire witnesses

[398] The second respondent challenged the reliability of Catherine Stewart on the basis that she had not had access to any papers beyond those lodged in process and that she spoke to events two years ago. Having heard her evidence and considered it against the relevant documentation, in my view, there is no substance to this criticism. Her evidence was also challenged as of limited relevance because it concerned a different child and a different period in the respondents' lives. I address this when dealing with the substance of her evidence. The principal criticism the second respondent advanced about Naomi Gillard was that, as Catherine Stewart's line manager, she had no direct contact with the second respondent in the context of social work planning but nonetheless opined on his manner of presentation. There is force in the contention that in her affidavit she spoke to matters of which she had no direct knowledge. Again, I address this when considering the substance of her evidence. I do not accept the criticism that she lacked reliability by reason of the passage of time or because she had never met the second respondent in the context of planning for the older sibling. Having heard her evidence, it is clear that she had a good recollection of the matters she could speak to either from her direct observation or in the exercise of her judgement in the oversight of other social workers. There is no real challenge to the credibility or reliability of Talia Underwood, rather the criticism is that her evidence is of little relevance. Again, I deal with this criticism when I consider the substance of her evidence. In short, I have no hesitation in accepting the credibility and reliability of the

Gloucestershire witnesses. I found each of them to be measured and professional in their presentation in court and in the assessments they made on the material available to them. Each was careful to state if she could not recollect a particular event. Each was clearly doing her best to help the court. Considered as a body, their evidence was consistent and also supported by the contemporaneous documentation. To the extent that the respondents' evidence was inconsistent (eg about any promise made as to the former placement, how the placement ended, the degree of support provided by Gloucestershire social services etc.) or that they assert that the Gloucestershire witnesses were lying, I reject that evidence.

The credibility and reliability of the petitioners' witnesses (Kerry Parsons, Debbie Adams, Lesley Stevenson and Tom Bochenek), and of Wendy Johnstone and Dr Edward

[399] There were sustained challenges to the credibility and reliability of some of the petitioners' own witnesses, particularly Kerry Parsons and Debbie Adamson, and to a lesser extent to the evidence of Lesley Stevenson and Tom Bochenek.

[400] Kerry Parsons: The second respondent challenged Kerry Parsons' credibility and reliability and argued that she overstated evidence and on numerous occasions presented incomplete information. Of these criticisms I accept the following:

1) Kerry Parsons' reference in her affidavit to "harbouring warnings"(in the plural) is incorrect, as there was only one harbouring warning issued in respect of the second respondent;

2) The statement in her affidavit that the "only" period of engagement by the respondents was in the first two weeks of November 2016 is overstated, if "engagement" is interpreted to mean simply meeting with social workers. I

address this issue below, when I consider the totality of the evidence on this issue;

3) She incorrectly stated that she and the midwife, Wendy Johnstone, were refused access on two occasions (this was for the purpose of assessing the suitability of the flat for a home-birth). On other evidence, the respondents were not at home on one of these occasions and the correct position is that the respondents had refused access on only one occasion.
4) Her reference to the second respondent brandishing a knife on the occasion when he was suicidal (in early 2017) is not supported by the relevant documentation.
5) She interpreted the police information about domestic abuse as relating to two separate former partners, whereas on a fair reading the information related to only one former partner.
6) When she recorded the allegation about the second respondent kicking a puppy to death, she did not also record that there had been no prosecution in Gloucester arising from this.
7) When referring to the allegation of sexual assault by the second respondent of a younger female relative, she did not also record his denial of that allegation.

Other criticisms concern her interpretation of the parenting assessments or other communications, which I will address when I deal with the substance of her evidence. These inaccuracies notwithstanding, in the essentials of her evidence she was credible and reliable. The gravamen of her evidence related to her interactions with the respondents and whether that was characterised by non-engagement. The vast majority of her evidence was supported by contemporaneous documentation or by other witnesses whose evidence I have accepted as credible and reliable. Furthermore, the assessment of whether there was non-

engagement is, ultimately, a matter for this court, and which is not dependent on the perception of individual witnesses. She made clear at points where she did not have recall of a particular matter (eg the individuals considered for potential kinship care), by reason of the fact that she had been on a substantial period of maternity leave and had not reviewed the relevant documentation before giving her evidence in court. What was apparent from her evidence, as well as that of the second respondent, was that there was a pronounced mutual distrust which developed between the respondents, particularly the second respondent, and Kerry Parsons. I do take this factor into account in my assessment of their evidence.

[401] Debbie Adamson: the second respondent also challenged her evidence as unreliable and, at times, incredible. Of those criticisms, I accept the following, namely:

1) It was not correct that the grounds were "established" on 22 March 2017; they were only "deemed established" on that date;
2) There is no documentary evidence to support Debbie Adamson's statement that she had invited the respondents to meet with her on 7 July 2017. In other letters and reports where she narrated missed meetings, this date was not included. This challenge came in the context to her statement that the petitioners' social work department tried to "encourage participation" by the respondents. The contention is that she did not invite parties to meet seven times between March and October 2017, as this included the disputed meeting of 7 July 2017. (There was no challenge to the other six occasions.) Her statement that the petitioners went to "extraordinary lengths" is also challenged on the basis that, qualitatively, even six invitations may not be characterised in this way. These criticisms

trespass on the substance of her evidence, which I will address below when I address the matters she spoke to.

3) She recorded matters in her affidavit of which she did not have direct knowledge, such as whether it was the case that the second respondent "always answered the door and controlled who was allowed access".

4) While she recorded that the second respondent asked her to remove his contact details from the petitioners' database, she did not also record that six days later he was happy to provide his number.

5) When she recorded that the second respondent did not attend at the looked after child review on 20 July 2017, she did not also record that he had told her the previous day that he would not be attending by reason of his father's illness.

In respect of other criticisms, such as her failure to respond to the second respondent's agents' letter in May 2017, I will address these when I deal with the chapters she spoke to. I am not persuaded that these matters materially undermine her central evidence, which concerned her interactions and attempted interactions with the respondents. While she is the author of the Application Report, the assessments therein made do not bind this court, which must itself assess the whole evidence in order to determine whether the statutory tests have been met.

[402] Lesley Stevenson: the second respondent argued that much of Lesley Stevenson's evidence was hearsay and not based on her direct knowledge. It is also argued that she overstated the respondents' degree of non-engagement and that this coloured the reliability of her evidence generally. The particular criticisms of her evidence which I accept are as follows:

1) When she referred to "only" three contacts initiated by the respondents, she omitted to include the May letter from the second respondent's agents.
2) In common with Debbie Adamson, she did not record that the second respondent supplied his contact details in late July 2017, a week after asking the petitioners' social work department to remove them.

Other criticisms are advanced about her attitude towards the second respondent's agents' letter of May 2017 and about the veracity of her statement that, had the respondents engaged, the petitioners would have considered contact. However, these matters concern the substance of her evidence, which I consider below. There is force in the observation that much of her affidavit, in common with affidavits from some of the petitioners' other social work witnesses, extended to matters of which she did not have direct knowledge. As will be seen below, I have taken this into account. She had a relatively limited role and her evidence, properly confined to matters within her knowledge or judgement, is in short compass. I am not persuaded that the criticisms advanced undermine these parts of her evidence.

[403] Tom Bochenek: the evidence of this witness is challenged on the basis that he had only one meeting with the respondents, which was generally positive, but that his affidavit strayed well beyond that single contact. He commented on the character or presentation of the respondents and their degree of non-engagement. In respect of the latter issue, it is argued that he also overstated this. The criticisms of his evidence which I accept are well-founded are as follows:

1) It is correct that Tom Bochenek referred to other matters in his affidavit beyond his single meeting with respondents on 1 February 2017. On one view, he may be expressing his views as a manager exercising oversight. However, to the extent

that he repeated the assessments formed by others and which he was unable to test against his own limited contact, this evidence is of doubtful relevance.

I will address the other criticisms, including his comments in the email to Debbie Adamson about the curator's report, when I consider his evidence.

[404] Wendy Johnstone: Wendy Johnstone had relatively few interactions with the respondents. It is argued that she was overly influenced by the petitioners' social workers, particularly the attitude of Kerry Parsons. While it is correct that in her affidavit she recorded in detail the opinions of the petitioners' social work witnesses, I have disregarded this evidence, as explained below. It is her own interactions and assessments that are relevant. It was suggested that, as she was unable to supply examples of the second respondent's aggression in hospital, her evidence about this should be disregarded as unreliable. I am not persuaded there is any merit in this criticism. In respect of the matters on which she had direct knowledge, I accept her as an entirely credible and reliable witness. In my view, she was careful and balanced in her evidence and, contrary to the criticisms made, not overly influenced by the petitioners' other witnesses. In her assessment of the respondents I found her to be entirely fair and balanced.

[405] Dr Edward: I heard the evidence of Dr Edward under reservation of the second respondent's objection to the admissibility of her evidence. (I did not understand the first respondent to associate herself with the objection.) Under reference to the well-known observations in *Kennedy* v *Cordia (Services) LLP* [2016] SC (UKSC) 59 (at paras 39 to 56), it was argued that Dr Edward lacked impartiality because she had trespassed on the court's sphere in purporting to resolve what was said to be a factual dispute between the parties. In so doing, it was argued, she exceeded her remit as an expert. The particular focus of this criticism was her (it was said) overreliance on Debbie Adamson's narrative and which was

deficient for failing to record that the second respondent provided his contact details a week after asking for these to be removed. Dr Edward is criticised for not asking the second respondent specifically about this. The second matter in which she is said to have trespassed upon the court's function as the trier of fact, is in relation to how the child came to be placed in care. It is argued that, notwithstanding that she noted the "starkly different accounts of the situation that led to [the child's] placement in care", she appeared to prefer the petitioners' version of events. She is also criticised for accepting the overstatement that correspondence to the respondents was sent by recorded delivery, whereas only one item of correspondence was sent by this means. Separately, she is criticised for usurping the function of the court in expressing her view on "serious detriment" or for being less than transparent in her views. For these reasons, it is argued that she is partial and her evidence thereby falls to be excluded. Finally, it is argued that in providing "an assessment of the situation" she exceeded the terms of her letter of instruction. Nor was she instructed to consider the question of rehabilitation.

[406] As a fallback, it was argued that the court should attribute little weight to her opinion, given that her meeting with the respondents lasted only 45 minutes; that she met with them together, but not separately; and the documentation she had access to at the time was limited. The further point is taken that her evidence is not relevant to the factual test the court has to consider. It was also suggested that her conclusion, that it would be seriously detrimental for the child to be returned to her parents, was at variance with the evidence of Lesley Stevenson, which was to the effect that it would be seriously detrimental for the child be returned to its parents "when they had not been assessed as carers for [it]".

[407] In my view, there was no force in these criticisms. In the first place, Dr Edward was careful to record what information had been provided to her, both documentary and the

tenor of Debbie Adamson's views in the meeting she had had with her. She had subsequently reviewed additional documentation (eg the petitioners' third inventory), which was not available to her at the time she completed her report. She recorded the dispute on certain factual matters. In all of this she was transparent. Furthermore, I am not persuaded that these matters are of any materiality to the opinion she expressed or that she trespassed into the territory of the factfinder. In my view, the principal challenge under reference to *Kennedy* v *Cordia (Services) LLP* is without merit. In relation to her assessment of "serious detriment", she explained that this was her clinical view and not an attempt to answer a legal test. In any event, the essential features of her evidence concerned the impact on the child of disrupting the attachments it had formed. This is an entirely discrete issue from any view about the respondents or one based on matters such as their requests to remove contact details, their subsequent provision of these or other similar matters. Dr Edward fairly acknowledged that the respondents expressed a desire to care for the child and did not intend it harm. Their weakness, as she identified it, was to do with a lack of ability and insight, not a want of good intention.

[408] I found her to be measured in her views, precise in her manner of expression and careful to observe the proper boundaries of an expert witness. She exhibited all the qualities of an independent expert witness. She readily accepted that she might require to reconsider her opinion if any factual premise for it was incomplete or unfounded. In the event, there was no such deficiency and, as I have already observed, her principal evidence about the effect of disrupting the child's attachments was unrelated to these sorts of factual matters. I have no hesitation in accepting her evidence and I repel the second respondent's objections to it. For completeness, I note the observations of the Inner House in *Midlothian Council* v

CMP 2014 SC 168 at paragraph 21 that Dr Edward was an independent chartered clinical psychologist with "very considerable experience" working *inter alia* with children.

Credibility and reliability of the first respondent

[409] Generally, I found the first respondent to be an unreliable witness in her evidence about meetings, medical appointments, correspondence received and particular events. Not surprisingly, she had very little recall of any of this. I also found her incredible in the essentials of her evidence. In her affidavit and in her examination in chief she maintained her position about the way in which the foster care placement ended, the "kidnapping" incident, and the denial of contact with the older sibling thereafter. However, she accepted in cross-examination that her version of these events was unfounded. Even had she not conceded this, her evidence was flatly contradicted by witnesses whose evidence I have found credible and reliable. Her evidence about the lack of any effective support from Gloucestershire social services, or her insistence that she was unaware of the parenting assessments being undertaken, is equally unconvincing and contradicted by the evidence from the Gloucestershire witnesses. Her inability to recognise the high degree of support she was offered is demonstrative of her continuing lack of insight into her own needs, how these significantly affect her capacity to parent a child and the resultant risks this poses. While minor matters in themselves, the first respondent was quick to lie about her reason for not attending the TCPCC in November 2016 (to the effect she had no money), when there was other evidence that a refund of bus tickets was offered. (Indeed, the evidence disclosed considerable efforts by the petitioners' social workers to facilitate the respondents' attendance at social work meetings or medical appointments, but which the respondents refused or opportunistically exploited for their own benefit (eg claiming expenses for the

same journey twice or selling bus tickets on eBay).) Her explanation for the state in which the flat in Gloucester was left is implausible in the extreme. Further, there was the concerning passage in her parole evidence conceding that she could not explain what certain parts of her own affidavit meant and that not all of it was comprised of her own words. Having heard her parole evidence, it is evident that much of the affidavit is framed in language which was clearly not the first respondent's own. In her parole evidence she also departed from statements contained in her affidavit. Further, I find that she lacked insight into her own past conduct and how that affected events concerning the older sibling or posed a risk to the child. In respect of some entries in the documents which she did not accept, her assertions that these were made up to cause her mischief were wholly unconvincing. I do accept the evidence of others that she was greatly influenced by the second respondent and, in the light of that evidence, I place little weight on her assertions that he was not controlling of her or on her attempts otherwise to defend his conduct (eg to state that he was not aggressive in any way). Accordingly, I am disinclined to accept her evidence unless supported by other independent evidence (excluding that of the second respondent for reasons I will next explain).

Credibility and reliability of the second respondent

[410] The second respondent was, at times, combative and argumentative in the witness box. If his evidence is to be believed, at any point when a social worker expressed a negative view or disagreed with the second respondent, then that social worker was wrong, lying or motivated by ill will. For example, he accused Kerry Parsons and Naomi Gillard of "twisting his words" and lying in their evidence to the court. The petitioners' witnesses recorded at the time that the second respondent would not accept any concerns. In his

parole evidence, however, he insisted that he accepted some concerns (possibly with a view to presenting as more reasonable or responsible), but was unable to state which of those concerns he did accept. Many witnesses spoke to their impression that he was focused on his own rights and what he perceived to be infringements of them. (One telling example is that, notwithstanding being advised by the petitioners' agents from the outset to obtain legal advice, he apparently did, but with a view to vindicating what he saw to be false information about himself and not in respect of the child.) This was reinforced by his presentation in the witness box and his ready propensity to blame others. At no point did he accept any responsibility for his own actions (eg for non-attendance at contact sessions to see the older sibling or the breakdown in the relationship with the petitioners' social workers). He was evasive at times. He required to be directed to answer questions about his other, older children; he was reluctant to answer questions about David Shaw, trying to deflect these by stating that this was a matter for the first respondent. He was compelled to backtrack on his assertion that he did not receive certain letters advising of meetings (as the reason for his not attending these) when it was put to him that he had himself lodged some of the relative correspondence. Generally, I found him an unreliable and incredible witness. He did not give the impression of trying to do his best to assist the court, so much as to continue his battle with the petitioners' social workers, to blame others and to exonerate himself.

The Gloucestershire witnesses

[411] As noted at the outset of this opinion, the respondents put in issue a large number of discrete matters to which the Gloucestershire witnesses had to speak. It was not clear until submissions why this approach was taken. The first respondent argued, in effect, that she

was not responsible for the failure of the mother and baby foster care placement but that this had been capriciously terminated. She also sought to sidestep any responsibility thereafter for not attending the post-placement contact sessions by denying that these were ever offered. Separately, she argued that for the short duration of that placement, she had exhibited adequate parenting skills. Some of this evidence is, at best, of tangential relevance although I record my determinations of these matters below.

[412] Otherwise, the evidence of the Gloucestershire witnesses about the parenting assessments and the respondents' conduct is relevant. Indeed, in my view the evidence of these witnesses is of critical importance. It was the Gloucestershire witnesses who assessed the respondents' parenting skills in the supported context of the foster care arrangements put in place after the older sibling was discharged from hospital. These same witnesses undertook the only parenting assessments prepared in relation to the respondents. None of the respondents' criticisms of the petitioners' reliance on these parenting assessments are, in my view, well founded. While these assessments had been prepared in relation to a different child, it remained the fact that this was a child of the same couple and that these assessments were recently done. Furthermore, these assessments formed a baseline against which the petitioners could assess whether the respondents had addressed the issues therein identified. I will comment on this evidence below.

[413] Part of the exercise the court is required to undertake is to consider prospectively the child's interests throughout its childhood. On the authorities, this must be an assessment of what is likely to happen based, in part, on its findings on a balance of probability of past events and the extent to which they may inform that prospective assessment. For this reason, I regard the evidence of the Gloucestershire witnesses to be relevant and reject the respondents' criticisms of that evidence as historic. It must be observed that there is an

inherent inconsistency in the respondents' arguments in rejecting the relevance of the parenting assessments, but in relying on their own subjective perceptions of events that were the subject matter of those assessments - eg how the foster care placement went (for the first respondent) or of how successful contact was (for the second respondent).

Individual chapters of evidence spoken to by the Gloucestershire witnesses

The respondents' own backgrounds and circumstances

[414] There was no substantive challenge to the evidence of the Gloucestershire witnesses about the upbringing and family circumstances of the two respondents. The first respondent had had a difficult and abusive childhood with social care involvement, albeit intermittently, from about the age of two weeks old. She had experienced parental neglect and had been exposed to domestic violence. The second respondent had experienced a difficult and abusive childhood. He left his own parents during his early teenage years. It was submitted that the respondents' own early experiences of life and troubled childhoods would have an impact on their ability to care for a child. I accept this submission. It respectfully seems to me that an individual who has not experienced good or consistent parenting is likely to find it more difficult to become a good parent in his or her own right, than a person who has experienced positive parenting role models.

[415] From the evidence of the Gloucestershire witnesses it was also clear that the first respondent was a vulnerable young adult. I need not resolve the dispute in the evidence as to precise age the first respondent had reached when she began her relationship with the second respondent. It suffices for present purposes to note that she was an accommodated teenager, having been accommodated from about 2015, when she was aged about 16 or 17.

She remained a looked after child even after she moved to Fife with the second respondent in October 2016.

[416] Both of the respondents were provided with significant professional support by Gloucestershire social services. The second respondent had support for his mental health. The first respondent had her own social worker (latterly Talia Underwood), an advocacy worker and supported accommodation from 2015. After the discharge of the older sibling from hospital, the first respondent had additional support in the form of a mother and baby foster care placement with an experienced foster carer from April to May 2016.

[417] The Gloucestershire witnesses also gave evidence that the respondents struggled to engage consistently with social services and medical professionals prior to and after the birth of their first child, the older sibling. The first respondent was also offered support for her mental health while she was in the placement, but she did not accept this help. While there was evidence that the respondents were critical of the level of the support offered, I find these criticisms to be without foundation. I have noted above, and need not here repeat, the very substantial support provided to each of the respondents. The individual criticisms did not, in my view, justify or excuse the respondents from disengaging in the way that they did. Further, while the respondents elicited evidence of sporadic episodes where they initiated or permitted contact with the social workers, with a view to countering the assertions of total non-engagement, there was no real challenge to the overwhelming body of evidence of the respondents' inability consistently to engage with support from medical and social services professionals or to do so for any sustained period.

The premature birth of the older sibling and its hospitalisation after birth

[418] The first respondent went into labour before her first child (the older sibling) had reached full term and her baby was born significantly prematurely. Clearly, this had been a traumatic experience for both the first respondent and her baby. The respondents attributed the premature labour to a difficult meeting they had had earlier that day with Gloucestershire social services and they appeared to be proud of the fact that they had, as they believed, secured the dismissal of the social worker whom they blamed. It is irrelevant that, in fact, the social worker had reached the end of his term as an agency worker, as the Gloucestershire witnesses confirmed in their evidence. The only significance of this evidence is as an illustration of the respondents' antipathy towards social workers and as a reflection of what they perceived to be important. In particular, it reinforced their sense of grievance or what they perceived to be a "victory" (as they saw it) in having the social worker dismissed (an allegation repeated to the curator and recorded in his report). And it will be recalled that the second respondent also threatened Kerry Parsons that someone - ie a social worker - was going to lose their job. This high degree of antagonism persisted and had, in my view, unfortunate consequences. However, it is in my view not insignificant that at no point in their evidence, either in their affidavits or in their several days in the witness box, did the respondents ever express empathy or concern about their first baby's difficult early weeks in hospital or the medical problems it had to overcome. These difficulties appeared not to have registered with the respondents, so consumed were they with the breach, as they saw it, of their rights.

[419] As a result of its premature birth, the older sibling remained in hospital for some six to eight weeks after its birth, initially in intensive care. Significant medical input was required. One of the contested issues was the frequency of the respondents' visits to their

first child, the older sibling, in hospital, and the duration and quality of those visits. There was also a degree of confusion in the evidence as to the number of overnight stays the first respondent completed in hospital with the older sibling, in the few days prior to its discharge from hospital. In her affidavit, the first respondent did not herself contend that she had stayed for five nights but only did so after hearing the evidence of Talia Underwood in court. The respondents did not themselves suggest that they attended on a daily basis. Rather, they contended that they had attended more frequently than the Gloucestershire witnesses had allowed. On this point, I prefer the evidence of the Gloucestershire witnesses, who had access to the hospital and other records. I find that it was more likely than not that the first respondent spent only two nights overnight with the older sibling in hospital, rather than the five nights suggested by Talia Underwood. However, I note that the first respondent had just undergone a traumatic and premature labour. On the basis of Dr Petrie's diagnosis, albeit made retrospectively, the first respondent was likely to have been suffering from post-natal depression. Furthermore, new parents adjust in different ways to the arrival of a newborn. The features I have mentioned make it at least explicable that the first respondent did not visit her baby daily in hospital immediately after its birth. On the other hand, harsh though it may be, there is force in the evidence of several of the witnesses from Gloucestershire social services (as well as some of the Fife witnesses) that other parents similarly affected by post-natal depression or other mental health issues do, nonetheless, endeavour to bond with their child and that the lack of effort or interest exhibited by the respondents was unusual. What does, perhaps, cry out for explanation is why the second respondent did not separately make more frequent visits than he did. The first respondent did not require his full-time care. While his mother was poorly and his father was soon to become unwell, there was nothing in the evidence to suggest that these factor's precluded

him from visiting at this time. In any event, the evidence disclosed that these visits decreased, rather than increased, with time. I accept the evidence of the Gloucestershire witnesses that, towards the end of the older sibling's stay in hospital, it went unvisited for days on end and that this had an adverse impact on the older sibling and on the respondents' ability to bond with it.

The mother and baby foster care placement

[420] While the first respondent might initially have been confused about the nature of the placement, even on her evidence she was aware several weeks before it began that it was to be a foster care placement and not a place in a mother and baby unit. In cross-examination, the first respondent accepted this and that she had visited the placement several weeks before it began. I accept the Gloucestershire witnesses' explanation for why, initially, the placement was only for the first respondent and the older sibling, and why the second respondent and the first respondent's family could form no part of the placement at its start. I also accept that it was their intention, if the placement progressed well, to increase the second respondent's contact with the older sibling as part of the family unit. I also accept the evidence of the Gloucestershire witnesses about their desire for the placement to succeed and for the first respondent to establish a bond with the older sibling. None of the respondents' criticisms, to the effect that they were offered no support by Gloucestershire social services, is well-founded. I have no hesitation in accepting the Gloucestershire witnesses' evidence of the extensive arrangements they put in place to support the first respondent in the foster care placement. Furthermore, Gloucestershire social services were aware of the first respondent's vulnerabilities. The arrangements they put in place were as supportive as they could be. It matters not, therefore, that there was no formal diagnosis at

that stage of the first respondent's post-natal depression. I accept the evidence of the Gloucestershire witnesses that such a diagnosis would not have altered the arrangements or assessments they made in the circumstances.

[421] I do not accept any of the first respondent's criticisms about the foster carer's care and support of the first respondent as she adjusted to the role of a full-time carer of a young baby. The early weeks and months in the life of a baby are never easy for a first-time parent. The first respondent had had a troubled childhood, to say the least, and lacked a role model for good or stable parenting. She was a vulnerable young woman and had mental health issues, including post-natal depression (although that may not have been formally diagnosed or recognised in those terms at the time by those providing support to her). I have no doubt that the first respondent found that placement hard and that she struggled with the constraints it imposed on her conduct, namely, the limited amount of free time she could have with the second respondent and her inability to do what she wished when she wished and with whom, which were necessary consequences of that placement. On the evidence, I accept that Gloucestershire social services put in place all of the support it was able to in order best to support the first respondent to adapt to that new role and to form a bond with the older sibling.

[422] Nor do I accept any of the first respondent's criticisms about the suitability of the foster carer's home. On one view, the first respondent's many criticisms of the foster carer and her home are at best tangential to the central issues in this case. However, what these criticisms do disclose is a lack of insight on the part of the first respondent of the need for such arrangements and the good intentions of those trying to provide them, even if the first respondent found those constraints unwelcome. These chapters of evidence also disclosed a tendency on the part of the first respondent to blame everyone else and not to recognise any

responsibility on her part to put in the hard work necessary to the care of a young baby. In other words, the lack of insight that might have been attributable to inexperience, vulnerability and post-natal depression nonetheless persists. She accepted no part in the failure of the foster care placement and she also betrayed a complete lack of appreciation of the responsibilities a parent owes to a young baby, demanding though they may be.

[423] Turning to the issue of how the mother and baby foster care placement in Gloucester came to an end, and about which there was extensive evidence, I do not accept the first respondent's version of events. The incident in which the first respondent was late returning to the rendezvous with the foster carer (after a visit on her own with the second respondent), and in which the foster carer (who had charge of the older sibling) was instructed to wait no longer but to return home, did not constitute the ending of the foster care placement, as the respondents contended. It illustrated the need to reinforce boundaries. Putting it another way, the first respondent had to begin to learn to recognise the responsibility she had to others (ie the older sibling) and to prioritise those to her own preferences (to be with the second respondent immediately). I accept the evidence that, notwithstanding that incident, the foster care placement remained open for a further seven days and that the first respondent was repeatedly urged to return to it. I reject the first respondent's evidence to the contrary.

[424] Nor do I accept the first respondent's evidence that she was denied contact thereafter or was promised a different placement. (In cross, she conceded she had not been refused contact post-placement.) I have no hesitation in accepting the evidence and good faith of the Gloucestershire witnesses about the additional arrangements they put in place to facilitate contact after the first respondent refused to return to the mother and baby foster care placement. What is more troubling still is the first respondent's failure thereafter to exercise

contact when this was arranged for her and specifically taking into account her preference that the second respondent be present with her for all of the proposed contact sessions. Notwithstanding these arrangements, the respondents were not able to sustain even the more limited demands of attending thrice weekly at a contact centre to be with their first child. Even accepting the first respondent's vulnerabilities at that time, she nonetheless chose to resume living with the second respondent in preference to establishing or maintaining a relationship with her first child (ie the older sibling). It should be noted, too, that the first respondent did not attribute her conduct to post-natal depression until prompted to do so by questions put to her. Rather, she maintained her version of events of a capricious and unfair termination of the placement, and for which she bore no responsibility.

[425] On the evidence, Gloucestershire social services were not facing the first respondent with the stark choice between her baby (ie the older sibling) and the second respondent. I am satisfied that their intention was for the second respondent to play a greater role at a suitable point in the contact arrangements between the first respondent and the older sibling. Gloucestershire social services' supportive intentions were also reflected in the adjustments they made, at the first respondent's request, to include the second respondent in all of the contact sessions proposed after the foster care placement had come to an end.

[426] The evidence also disclosed that, even during the five or six week period for which the foster care placement subsisted, there were features which give rise to concern. While the first respondent appeared able to meet the older sibling's most basic physical needs, in the form of feeding and changing its nappy (although there was some evidence she needed prompting for some of these), there were other causes for concern. There is the evidence that the foster carer heard the first respondent swearing at the older sibling, but never heard

more positive interactions such as the first respondent talking to or playing with her baby while in her bedroom. There is also the evidence that the first respondent spent a considerable amount of time on the phone with the second respondent while she was in her bedroom with the older sibling. The inference was that she was not engaging with or becoming attached to the older sibling. The first respondent did not really seek to counter this in her evidence; rather, the focus of her evidence was her complaint that the removal of her phone was being considered. Again, she was unable to see beyond the immediate impact of events on her, and was unable to appreciate that there might be good reasons to take this course. This is another instance, albeit small in itself, of her self-absorption at the expense of bonding with the older sibling, which was the fundamental purpose of the foster care placement. Indeed, the first respondent never appeared to appreciate either at the time, or subsequently that this was the fundamental purpose of all of these supports. She could not see beyond what she perceived to be the unfair or unwelcome constraints these arrangements imposed. The most concerning evidence, and described as very unusual, was the unwillingness of the older sibling to make eye contact with the first respondent and of actively turning its head away from her. I accept the evidence that this was extremely unusual and of such concern as to lead the Gloucestershire social services witnesses to seek specialist paediatric advice. I accept their assessment as well-founded that the first respondent did not show emotional warmth and that she was incapable of recognising and meeting the emotional and developmental needs of the older sibling, even with all of the supports made available to her.

[427] The totality of this evidence disclosed that, even with all of these supports in place, the first respondent was unable to meet all of the older sibling's needs and she effectively abandoned him when she found these responsibilities, or the constraints imposed, too

difficult. Sadly, the evidence disclosed that, even with the high level of support provided and the allowances made for the first respondent's vulnerability (eg her mental health issues, her relative youth and immaturity, and the lack of good parenting role models in her own life), she was unable to provide and sustain the care required of a small baby in the highly supported context of the mother and baby foster care placement.

[428] What of the second respondent? To the extent that the second respondent provided an explanation for his failure to exercise contact, he attributed this to family illness. Difficult though this was, it does not fully explain his failure to exercise that contact. The hard truth is that discharging the filial duties toward an ill parent, even one who becomes terminally ill, does not excuse a failure to forge the equally important familial bonds with one's own newborn child. In any event, on no view could the arrangements undertaken by Gloucestershire social services be characterised as inadequate, as using the second respondent's mental health against him (as he repeatedly asserted at the time and in evidence), or as failing to have regard to the respondents' vulnerabilities. While the second respondent never had an opportunity to participate in the foster care placement, he also failed to attend most of the contact sessions with the older sibling arranged after that placement came to an end. In my view, this is a fundamental failure of commitment by a parent towards its child. The evidence sadly disclosed that the respondents abandoned their first child (ie the older sibling) when it was only a few months old. In my view, this is a critical finding. The importance of a stable, safe and loving home and of parental dependability cannot be overstated in the upbringing, especially in early childhood, of a child. There is, in my view, considerable force in the observations made by social workers from Gloucester (in relation to the older sibling) and by social workers from the petitioner (in relation to the child), that they could not simply "wait and see" what the respondents

would do (leaving the child concerned in a state of limbo, or in a foster placement of uncertain duration).

[429] Several consequences flow from this evidence. First, I accept as highly relevant to the threshold test the evidence about the first respondent's inability to parent her first child (ie the older sibling) and I do not find the respondents' criticism of the petitioners' reliance on that evidence to be justified or as providing an alternative explanation for the failure of the placement. Secondly, it is also highly relevant to the threshold test that, thereafter, both respondents were incapable of sustaining even the more limited demands of attending three times a week at a contact centre. A further consequence is that the petitioners could not responsibly approach the question of risk posed to any child of the respondents without regard to the whole circumstances surrounding the removal and adoption of the respondents' first child in England. In other words, it was not simply a question of concerns coming to the notice of the petitioners and of which they would require to take note and, in due course, investigate; rather, they could appropriately proceed on the basis that the concerns in England had been established and resulted in the removal and adoption the respondents' first baby. I stress that this does not impose any onus on the respondents or require them to show they can adequately parent the child. The onus remains on the petitioners to prove that the statutory tests are met. The events in Gloucester were undoubtedly relevant to, and informed, the petitioners' initial conduct in the exercise of their own child protection responsibilities, once engaged. In other words, the petitioners could approach matters on the basis that they were looking for some evidence of a change of behaviour, or some better insight or understanding, on the part of the respondents to allay those well-founded concerns. It did not matter that these concerns had been identified by another local authority in respect of a different child. It may well be that, in moving to

Scotland, the respondents hoped to put the past behind them, but the petitioners could not disregard that past, as it remained relevant to the assessment of risk posed to the child.

The petitioners' reliance on the Gloucestershire parenting assessments/criticisms for not conducting their own parenting assessments

[430] The respondents challenged the petitioners' witnesses' reliance on the Gloucestershire social services parenting assessments. However, in my view, there was no substance to these challenges. It was simply pointed out that these were conducted in relation to a different child. It was not suggested that there was some material difference in the circumstances obtaining at the time of the birth of the respondents' first baby (ie the older sibling) and those pertaining to the birth of the child. Nor was it suggested that the methodology adopted was flawed or at variance with Scottish practice, or that they addressed issues not relevant to the statutory tests in the Scottish legislation. (Even in submissions, the second respondent could only assert that the Gloucestershire social services parenting assessments were done at a "different" stage in the respondents' lives. It was not otherwise suggested (or shown) that there was any material change on the part of the respondents.) In my view, the respondents' challenges to the parenting assessments are unfounded.

[431] It follows that I do not accept as justified the respondents' criticism of the petitioners' reliance on the parenting assessments conducted by Gloucestershire social services, either on the basis that they did not relate to the child or on the basis that they were historic. Gloucestershire social services undertook the only parenting assessments in relation to the respondents. These were completed less than a year before the birth of the child and could not be dismissed as historic. By reason of the respondents' non-engagement, other than in

the most sporadic and superficial sense, there was no prospect that the respondents would cooperate to enable the petitioners to undertake fresh parenting assessments. For this reason, I find there is no merit in the respondents' further criticism that, after the birth of the child, the petitioners did not endeavour to undertake their own parenting assessments of the respondents in relation to the child or to approach the respondents for this purpose. In the light of the turbulent relationship and, ultimately, profound disengagement, it is likely that any overture by the petitioners for this purpose would have been rebuffed.

The parenting assessments

[432] The respondents each maintained that they had never been told by any of the Gloucestershire witnesses that parenting assessments were being undertaken. There was some evidence that, at times, the respondents would appear to understand a piece of information but that they would later betray a lack of understanding about it. This may provide an explanation for their insistence that there was no parenting assessments. Having heard the witnesses, I have no hesitation in accepting that Catherine Stewart made it abundantly clear at the time that this is what she was seeking to do. I accept her evidence that she repeatedly used the word "assessment" and that the respondents could have been in no doubt as to what she was doing. Furthermore, and unusually, Gloucestershire social services attempted a second round of parenting assessments of the respondents, albeit this was in the context of the English proceedings. By this stage, the respondents had the benefit of legal advisers in respect of those proceedings who could explain the purpose of those assessments if the respondents had any doubts or questions. Accordingly, I reject as incredible and unreliable the respondents' evidence that they did not understand that parenting assessments were being undertaken in relation to them by Gloucestershire social

services. In any event, each of the respondents gave some ground and acknowledged that there had been meetings arranged by Catherine Stewart for this purpose. The curator's report is similarly flawed by preceding on the respondents' versions of events, which is inconsistent with the evidence I have accepted.

[433] At one level, it is not entirely clear why it would be a basis for challenge if the person being assessed was not expressly apprised of this. The purpose of such assessments is to form an objective view of the parenting skills or capacity of the parent which, seemingly, should not be critically dependent on the knowledge that they were being assessed for this purpose. Indeed, given the first respondent's assertion that she had done her best during the foster care placement, any alleged ignorance on her part that an assessment was being undertaken would not undermine that assessment. Be that as it may, it appeared that the respondents wished emphatically to resist any knowledge of the parenting assessments and to put this in issue at the proof. More importantly, upon a consideration of the whole evidence, there was no substantive or effective challenge to the fundamental findings made in the parenting assessments.

[434] Turning to the substance of the parenting assessments, I have recorded in detail above the first respondent's cross-examination of Catherine Stewart in respect of the parenting assessment. I accept her evidence that she had to look at the information then available to her but also to consider the whole childhood of the older sibling. This witness fairly acknowledged the few positives that she had identified, and which were explored with her. The first respondent had not been able adequately to care for the older sibling, notwithstanding the supported context of the mother and baby foster care placement. This conclusion was not undermined by the first respondent's own perception that the foster carer was controlling or that the foster care placement constrained her freedom of

movement. I also accept Catherine Stewart's evidence, albeit hearsay, reporting what the foster carer had overheard and, more fundamentally, the concerns identified by medical staff about the very unusual feature of the older sibling turning its head away from the first respondent. None of these points was challenged in cross-examination. Nor was there any real challenge to Catherine Stewart's assessment that the first respondent lacked emotional warmth or her conclusion that the first respondent was unable to meet the emotional needs of the older sibling, or to meet its basic physical needs in an unsupported context. At its highest, the first respondent's evidence was simply that she disagreed with her assessments (no positive evidence was offered to fortify this) and she thought the placement had gone well.

[435] The second respondent challenged Catherine Stewart's parenting assessments prepared in relation to him because he was not assessed from the perspective of being able to look after the older sibling and that the meetings for the parenting assessments were too closely spaced together. He does not otherwise explain his failure to attend the majority of those meetings. It is the case that Catherine Stewart made some positive assessments. These have to be considered alongside her parole evidence. She had identified that the second respondent's mental health would pose a risk if this was not addressed or controlled. This subsisted as a risk to be considered by the petitioners' own social workers. It remained the case that the second respondent, in common with the first, had abandoned the older sibling when it was about four months old.

The state in which the respondents left their Gloucestershire flat

[436] Some of the Gloucestershire witnesses spoke to the photographs taken by police of the interior of the respondents' flat in Gloucester after they had moved north to Fife. In the

main, these disclosed an extremely cluttered and untidy space, with possessions, rubbish and plastic bags strewn about. In cross-examination the first respondent accepted that the items shown in these photos were her possessions. She and the second respondent nonetheless maintained that they had not left the premises in the condition depicted in the photos. I accept the petitioners' submission that it was highly improbable that third parties would have broken into the flat for the purposes of vandalising it, as the respondents contend, but otherwise would not have taken any of the items of value found inside (such as a TV or other electrical goods).

[437] As an adminicle of evidence, this has little direct relevance to the principal issues for this court. While the petitioners founded on this as one of the factors I should take into account, I am not persuaded that this evidence fairly reflected the respondents' domestic habits. Indeed, I note the observations made by the petitioners' social workers, on some of the few occasions when they were permitted to enter the respondents' flat, that it was warm and tidy, albeit it was sparsely furnished. Accordingly, I do not place any weight on this small chapter of evidence as supporting the petitioners' case. Further, there was in my view some force in the criticism that Kerry Parsons emphasised the negatives in her assessment of the material available to her. When she referred to the state of the respondents' flat in Gloucester, for example, she did not couple that with the later positive (although limited) observations about the state of the respondents' flat in Fife.

[438] However, these photos do call into question the credibility of the respondents. They might have fairly said that they had not intended permanently to leave the premises in that state, as they had not anticipated their move to Fife would be a permanent one (as it became). However, they persisted in inexplicably maintaining a highly improbable story

rather than to acknowledge any failing on their part. This is another example of their inability to accept any responsibility for their conduct and their tendency to blame others.

Did the respondents "flee" to Scotland or "conceal" that they were expecting the child?

[439] As a looked after child in England, the first respondent was obliged to advise Gloucestershire social services of her whereabouts or any change to her accommodation. (The second respondent's submission that, if the first respondent had been in Scotland, she would not have been a looked after child after turning 16, misses the point. The first respondent was under a duty to report her whereabouts but which she ignored.) However, I also accept that the child was not on the child protection register in England at the time the respondents came north to visit the second respondent's terminally ill mother. I accept the respondents' evidence that when they came to Fife, they had not then intended this to be a permanent move, although this quickly became their intention. This combination of circumstances led Gloucestershire social services to report the first respondent as missing, which was understandable given her age, vulnerability, previous patterns of going missing overnight and the question mark over her relationship with the second respondent (then in its early stages) who was considerably older than she was. In this context it is understandable that Kerry Parsons characterised the respondents as "fleeing" to Scotland and "concealing" that they were expecting the child. Even if that were her impression in the early stages of the child protection process, the respondents did soon thereafter readily disclose that they were expecting the child and they provided the explanation that they were encouraged by the second respondent's family to remain in the Fife area. Further, given that Kerry Parsons was able to visit them in the early weeks at three different addresses, I infer that they had advised her of each of these changes. This is hardly consistent with the

respondents concealing their whereabouts. On the totality of the evidence that emerged at the proof, the use of the word "flee" imputes a kind of intention to the respondents which they likely did not have, but which was explicable given the first respondent's failure to advise Gloucestershire social services of her movements and the communications from the Gloucestershire witnesses. However, this conflict of interpretation of the respondents' conduct in coming to Fife contributed to the souring of the relationship between the respondents and the petitioners' social workers.

[440] I now turn to the chapters of evidence spoken to by the petitioners' witnesses of events in Fife.

The petitioners' witnesses

The nature of the respondents' relationship

[441] At the time of older sibling's birth and during the currency of the English proceedings to arrange for its adoption, the first respondent was still a looked after child and not yet 18. Her relationship with the second respondent was still in its first year. There was some evidence that the second respondent was unable to maintain relationships. For these reasons, at the time of their initial assessment, the petitioners' social workers did not regard the respondents' relationship as a positive factor. However, by the time of the proof before me, the respondents had maintained their relationship in very difficult circumstances for three years. The assessment of their relationship as a negative factor must be reconsidered. The nature of their relationship remains relevant because they relied on their relationship as a couple as a positive feature for the purposes of resisting the Orders sought by the petitioners.

[442] What does the evidence disclose about their relationship? I accept the evidence that the second respondent did, and does, exercise a dominating influence over the first respondent. There was ample evidence of his controlling nature, in restricting access by the petitioners' witnesses to her, and of his influencing her own views. This was spoken to by every witness who had seen the respondents' interactions with each other. Such evidence as there was of her when she was observed on her own, was that she responded differently and was more willing to engage than when she was with the second respondent. At meetings where they were both present, she consistently remained quiet and the second respondent did all of the talking. That said, at times she could also be heard inside the flat telling the second respondent to tell the petitioners' social workers to leave (to "piss off").

Lesley Stevenson's observation, that they formed a mutually accepting relationship, is perceptive. If, however, one consequence was that the first respondent associated herself with the second respondent's hostility towards social workers or was dissuaded from cooperating with them, as appeared to be the case, the fact that the respondents have maintained their relationship for three years does not necessarily render it a positive feature for the first respondent or for any child put at risk by such hostility or lack of cooperation.

[443] Their respective presentations from the witness box reinforced this understanding of their relationship. The second respondent was abrasive, defensive and quick to assert his rights and to rehearse his grievances. The first respondent was quiet, lacking in confidence and was distinctly unaffective. One is left with the impression that her own position had been greatly influenced and hardened by the second respondent's attitude of hostility towards the local authority witnesses and his greater sense of grievance of infringement of his rights, as he would see it. His battles became hers. However, there did not appear to be a reciprocity of support. The second respondent was almost blasé in leaving the question for a

home-birth to the first respondent. Given his dominating influence, his statement rings hollow that the first respondent was free to let in health visitors if she wanted. While the second respondent sought legal advice (for the purpose, it would appear, of challenging matters concerning him), there is no evidence to suggest he encouraged her to do so, eg in relation to the child. The whole evidence disclosed that, as a consequence of his influence, she was discouraged from accepting help or meaningfully engaging with social work and medical professionals. To this extent, the second respondent's relationship was a negative influence on her.

[444] In common with the first respondent, it appeared to be an element of the second respondent's personality that he, too, was inclined to blame others, to make repeated complaints, to identify infringements of his rights, but not to accept or recognise any responsibility he had in the circumstances. The point is not that the evidence disclosed that he was self-absorbed, but that he appeared to be unable to set aside his sense of grievance in order to accept help or to permit the first respondent to receive help (eg to meet with midwives or to encourage the first respondent to attend medical appointments). This is not responsible behaviour, if the result is to create or increase risks for others. On the whole evidence, this behaviour readily exhibited itself in the respondents' interactions with the petitioners' witnesses. That behaviour does increase the risks to the child.

Substance or alcohol abuse

[445] In relation to the question of substance or alcohol abuse, which was founded upon in the Application Report, I am not persuaded by the respondents' denial or alternative explanations regarding the positive drug test results in Gloucester. That said, I am not persuaded that the petitioners have proved that the respondents engaged in substance or

alcohol abuse in Fife. At its highest, relatives very occasionally reported concerns. I find that the petitioners have failed to prove this as a factor and, accordingly, I place no reliance on this evidence when I come to consider the statutory tests.

The respondents' departure from hospital after the birth of the child

[446] In some of the documentation the petitioners' witnesses recorded, as an adverse factor, that the respondents left the hospital about two hours after the birth of the child but they do not also record that, by then, the interim child protection order (with a condition of no contact) had been served on them and the child moved. In cross-examination, the petitioners' witnesses to whom this issue was put accepted that the respondents had no choice at that stage. While it was suggested that the respondents had been entitled to visit the child in the nursery (because there were others present to supervise that contact), the respondents' evidence was that they were not aware of this. The petitioners' evidence on this point was somewhat equivocal, it never being clear who would have advised the respondents of this possibility. In any event, even if this had been communicated at the hospital, I accept that in the traumatic circumstances of the removal of their child, the respondents might not have taken this information in if it had been presented to them at the time. Accordingly, I do not regard this to be of significance as an adverse factor in this case.

[447] It is, however, one of the many unfortunate consequences flowing from the respondents' disengagement. On the evidence, the petitioners' plan to accommodate the child from birth was discussed with the respondents. Yet, in the months before and after the birth of the child, they singularly failed to challenge this plan in any forum or to attend any meeting to put forward their views. In the respondents' narrative, they no doubt view themselves as the victims of an injustice and whose rights have been infringed. (This is

clearly reflected in the curator's report.) In doing so, they ignore their own responsibility and the unhappy consequences of their quiescence.

The allegations involving the second respondent and evidence of his reaction to them

[448] There were passages in the evidence suggesting that the second respondent had a volatile and unpredictable temper. There was an historic allegation of sexual assault against a younger relative of the second respondent. I accept the point made on behalf of the second respondent that the police information recorded allegations as well as convictions. In other words, at certain points it was important for those considering issues of risk to distinguish between a "concern" and an "established fact". There is, for example, Talia Underwood's evidence that she helped the respondents to challenge and correct an overstatement of one of these matters by Gloucestershire social services. I also accept that, on occasion, Kerry Parsons appeared to equate "police evidence" with proven fact. However, this would not be correct in relation to an allegation (as opposed to a conviction) contained within the police file. Nonetheless, this was not material that responsible local authority officials could ignore at the stages of considering placing the child on the child protection register or of seeking interim orders at its birth. Counsel for the respondents did not suggest otherwise. The gravamen of their criticism was that this material was overstated or over-interpreted. There is some truth to that contention, at least at certain points in the long dealings between the respondents and some members of the petitioners' social work department. In relation to the specific allegation of sexual assault of a younger relative, I find that there is no evidence that this was ever established. It was never more than an allegation. The same may be said of the allegations of the second respondent abusing a puppy or about his brandishing a knife. These matters were not established in the evidence before me and I

exclude this material from my consideration of the statutory tests. I should note that at the end of the proof the petitioners' counsel did not rely on these as relevant to the issues to be determined. However, he did argue that the second respondent's angry reaction to reference being made to the allegation of sexual abuse was excessive. In other words, the second respondent's anger about it deflected him from the more important issue - which was the welfare of the child. There is force in this observation. It is clear on the evidence I have heard, that the repetition of this allegation loomed so large in the mind of the second respondent and generated such hostility on his part that this contributed to the breakdown in the relationship between him and the petitioners' social workers. It affords another example of the second respondent's self-absorption with his own rights in preference to the needs of others, including the child.

[449] For completeness, I should note that there was no challenge to Talia Underwood's evidence about the second respondent's threat made to the foster carer (to take the older sibling), and as a consequence of which she had to leave her own home for one night. Further, a number of the petitioners' witnesses spoke to the volatility on the part of the second respondent towards them or medical witnesses, particularly if he was crossed. I stress that there was no evidence to indicate that the second respondent had physically harmed a small child, but the matters I have just recorded do support a basis for concern about the inability of the second respondent to regulate his temper or behaviour, and the risks that this might pose toward a young baby or child in his care.

The issue of non-engagement by the respondents with healthcare professionals

[450] By reason of the circumstances of her first labour, the first respondent was assessed as being at greater risk and, for that reason, her ante-natal care was consultant-led. While

the first respondent attended some ante-natal appointments, the evidence disclosed repeated failures to attend at medical appointments, notwithstanding the provision of bus tickets or the offer of reimbursement of travel expenses. While the first respondent attended medical appointments on 20 November and 20 December 2016, she missed three other appointments in December, two appointments in January 2017 (specifically to address her low mood), and three further ante-natal appointments in February 2017. The respondents' assertions that they attended appointments or were unaware of them, or were told when they attended that there were no appointments, are contradicted by the evidence of other witnesses. I am satisfied that on each occasion when the first respondent missed an ante-natal appointment, she was informed of a replacement appointment. In most cases no credible reason was provided for her non-attendance. This chapter of evidence disclosed a cavalier attitude by the respondents toward the health of the first respondent and the child she was carrying. It was risk-taking behaviour for no explicable reason.

[451] It is in this context that the evidence about the first respondent's intention for a home-birth falls to be considered. Kerry Parsons explained on several occasions the need for the respondents' flat to be assessed. (Her text of 9 January 2017 to advise of the joint visit the next day for this purpose, for example, was met with the first respondent's text refusing to see Kerry Parsons and stating that the first respondent was "having a home-birth no matter what".) The petitioners' social workers and the midwife, Wendy Johnstone, attended the respondents' flat twice with a view to assessing its suitability for a home-birth. On the first occasion, the second respondent denied access to the medical and social work professionals. They were not at home on the second occasion. Nonetheless, they appeared to nurse a grievance that their preference for a home-birth had been thwarted (as they saw it). In her evidence, the first respondent asserted that she would have accepted any advice

about a home-birth. This assertion is incredible in the light of the evidence I have described, which included the dominating influence of the second respondent and his hostility towards such contacts, and the stream of hostile texts from the first respondent at this time. Furthermore, even in her evidence in court, the first respondent appeared not to be able to appreciate that she and her unborn child presented a higher risk by reason of the premature birth of her first child. It betrayed a lack of insight, even now, for her simply to assert that it was okay because the child had been born at full term because, of course, that could not have been known in advance. While as a matter of fact the first respondent ultimately went to hospital after the respondents called an ambulance, the point is that the respondents could never see beyond their own preferences, however misguided or uninformed by an understanding of the relevant risks. This is relevant, if the risk extends to a child in their care.

[452] Several conclusions may be drawn from this chapter of evidence. First, it is a further example of the respondents' refusal to engage with those professionals doing their best to assist them. Secondly, it illustrates that the respondents were incapable of recognising that they could not have their own way, if it posed a risk to the child. Further, it showed that the respondents could not recognise the risks presented. The respondents appeared unable to appreciate that all pregnancies carry a degree of risk; that they required to cooperate with medical professionals in order for the particular risks of a home-birth for the first respondent to be assessed; and that if the home was unsuitable or the risks were assessed as being too high, then the responsible step would be for the respondents to agree that the birth, when it occurred, should take place in hospital. The respondents' refusal to engage with healthcare professionals, in order to reduce the risks for the child, was irresponsible.

This lack of insight persists and would, in my view, continue to pose a threat to any child in their care.

[453] Part of this chapter included the respondents' failure to attend a meeting with medical experts to address the concern about the older sibling's lack of eye contact and its turning away from the first respondent. No reason was advanced for their non-attendance and, again, the clear impression is that the respondents were more determined not to be seen to be giving ground to social workers than to understand or address these serious concerns.

[454] There is also the evidence that the respondents refused to grant consent for immunisation of the child. No explanation was provided for their refusal. The strong impression was that the respondents were determined out of pique to refuse any request the petitioners made, regardless of the impact on the child. Certainly, this particular refusal is unlikely to be explained by reference to the respondents' mental health and other vulnerabilities. This is a further example of irresponsible behaviour flowing directly from their feud with the petitioners' social workers and which blinded them to the needs of the child.

[455] The inescapable conclusion from all of this is that the need to consider the child's best interests never formed part of the respondents' thinking. It also disclosed an inability to recognise when support was needed or to accept the support when offered. In explaining the lack of engagement in the months before the child's birth, resort cannot be had to the diagnosis of post-natal depression. In respect of the refusal to attend the ante-natal appointments in January 2017, the first respondent was no longer suffering post-natal depression (which followed the birth of her first child) and she had not yet given birth to her second child. Whether she failed to attend because of a lack of insight or disinclination, or was dissuaded by the second respondent from cooperating, there was nothing in the

evidence to dispel the picture of chronic and critical non-engagement. There is no basis in the evidence to support the respondents' assertion that, if they were allowed contact with the child, they would accept any advice offered and would fully cooperate with social services. The history of prolonged disengagement with third parties sadly contradicts this.

The evidence of non-engagement by the respondents with social work professionals

[456] I heard a significant amount of evidence about the interactions between the respondents and petitioners from the time that the latter placed the respondents' unborn child on the child protection register. That evidence disclosed efforts made in good faith on the part of the petitioners to discharge their responsibilities to protect the respondents' unborn child on the information available to them, whatever might be said about their interpretation of some of that material.

[457] There were tolerably good relations between the respondents and Kerry Parsons in the first two weeks or so in early November 2016, shortly after the respondents had come to Fife. However, as soon as Kerry Parsons disclosed the plan to accommodate the child from birth, the respondents' relationship with her quickly broke down. Any contact thereafter could only be described, at best, as sporadic. When the respondents did permit access, as often as not it was opportunistic, ie the respondents wanted or received something to their immediate gain (eg bus tickets, food, money or other material support such as provided on 18, 20 and 29 December 2016).

[458] Turning to the month of January 2017, after attending an ante-natal appointment on 4 January and permitting a child protection visit the next day (not involving Kerry Parsons), the respondents thereafter refused access for child protection purposes on five further occasions (on 10, 11, 13, 18 and 24 January 2017); they failed to attend a core group meeting

on 19 January and the first respondent missed a hospital scan on 23rd January. During this timeframe, too, the first respondent had sent hostile texts on 9, 10, 17 and 24 January and the second respondent had threatened (on 13 January 2017) that someone would "lose their job" or stated (on 8 February 2017) that he would sue to achieve this result. (The detail of all of this is set out in part A of Appendix 1 to this opinion.) The petitioners had also received information on 24 and 26 January 2017 which gave rise to a concern about the respondents absconding or members of the first respondent's family preventing removal of the child. Notwithstanding the respondents' cooperation on 4 and 5 January 2017, as just described, on no view could their behaviour in January (viewed as a whole) be described as meaningful or real engagement. Rather, both of them were hostile and repeatedly refused access for child protection purposes. They otherwise failed to avail themselves of an opportunity to attend a meeting and put forward their views on the petitioners' plans, which were known to them at this time. The failure to attend ante-natal appointments exacerbated their refusal to allow children protection visits.

[459] The second respondent maintained at the time, and in submissions, that he was being harassed by the petitioners' social workers. He stated as much at attempted child protection visits on 18 January 2017, and on 10, 12 and 17 February 2017. The basis for this complaint appeared to be that the number of visits was more frequent than once a week, given that in the month of February child protection visits had taken place on 3 February (when social workers provided bus tickets to enable the first respondent to attend her ante-natal appointment the following week) and on 6 February (at which social workers provided a copy of the report of the child protection case conference and encouraged attendance at the forthcoming medical appointment). By this stage, of course, the respondents had recently met with Tom Bochenek. He had agreed that Kerry Parsons would not be the front-line

social worker undertaking child protection visits and the respondents in turn agreed to permit these. The child protection visit on 8 February 2017 is explicable, given that the bus tickets provided a few days earlier (to enable the respondents to attend the medical appointment the following week) were being advertised on eBay. After the respondents refused entry on that day it is not surprising that the petitioners attempted a further visit two days later, on 10th February (which was also unsuccessful). A child protection visit was successfully undertaken on 12 February because the petitioners' social workers enlisted police support. Notwithstanding that visit, the first respondent failed to attend her scheduled medical appointment at the hospital the following day. This was rescheduled for 20 February 2017. Again, in the light of the first respondent's failure to attend her hospital appointment on 13 February, it is understandable that the petitioners endeavoured a further child protection visit the next day (ie 14 February 2017). The second respondent again refused entry. Three days later, on 17 February, a further child protection visit was attempted and, again, entry was refused by the second respondent - as was entry on an attempted visit two days later, on 19 February 2017. The first respondent failed to attend for her rescheduled hospital appointment on 20 February 2017. This prompted child protection visits on 20 and 21 February 2017, which were both unsuccessful.

[460] In the whole circumstances I have described, I do not accept the second respondent's characterisation of these visits as excessive or that he was entitled, as he would see it, to refuse to give access for child protection purposes. He was legally obliged to give access for that purpose. Had he done so, for example, on 8 February 2017, that probably would have obviated the need for further attempts in the immediately following days (although, he would have had to explain why the bus tickets provided to them were apparently being advertised on eBay). In any event, as Tom Bochenek explained, the minimum frequency for

child protection visits was once a week. More frequent visits might be needed. Given the information available to the petitioners' social workers in the month of January, which I have described two paragraphs above, and the intermittently hostile interactions thereafter, I do not accept that there was harassment. The petitioners' social workers were endeavouring to discharge their child protection responsibilities towards the child; a purpose which the respondents were demonstrably incapable of appreciating. The respondents were not justified in refusing access or otherwise failing to cooperate with social workers to enable child protection visits to be undertaken in respect of the child, particularly as the due date approached. Their actions in thwarting the petitioners in the discharge of their duties were irresponsible and taken without regard to the best interests of the child, which appeared never to feature in the respondents' thinking or motivation.

[461] The respondents did not really to seek to challenge evidence of extended periods of non-engagement which I have described. The second respondent sought to justify his conduct as a response to the harassment (as he would see it), an explanation I reject. Otherwise, it appeared to be the respondents' approach to focus on the relatively few instances of contact they initiated in order to advance the proposition that the petitioners' witnesses overstated the degree of non-engagement and that the respondents engaged, even if unevenly. (This was typified by questions to the petitioners' witnesses, such as, "Isn't it a 'positive 'that the first respondent asked for photographs?" etc.) (See part C of Appendix 1 to this opinion for these contacts.) This also resulted in detailed questions about the minutiae of these interactions. What is important to note is that Kerry Parsons (who had the most direct contact with the respondents) and Debbie Adamson each modified their evidence about the degree of the respondents' non-engagement. Accordingly, any criticism that they overstated matters in their respective reports or affidavits falls away. They each

explained that, notwithstanding the particular instances put to them, there was no "real" or "meaningful" engagement. As Debbie Adamson put it, meaningful engagement meant an acknowledgement of concerns and a willingness to work with social workers to address them. I accept the characterisation that the respondents did not display real or meaningful engagement as one that fairly reflects the respondents' behaviour at the material time. Their limited and sporadic requests for photographs or contact do not, in my view, displace that finding. Looking at the totality of their interactions with the petitioners' witnesses, I find that their conduct was marked by chronic non-engagement.

[462] Considering the totality of the interactions between the petitioners' social workers and the respondents, by and large, the respondents were highly resistant to efforts to help them. No doubt this was influenced by the recent experience of the removal of the older sibling from their care in the English proceedings. (Having just had a child removed from them, and therefore knowing that local authorities will act to remove children, the respondents' failure to challenge the petitioners' plans and to take steps to see the child (once born) is all the more surprising.) The second respondent, in particular, readily nurtured a sense of grievance. As he presented in his evidence, and as was observed by other witnesses, he was incapable of seeing social work involvement as anything other than an unwarranted intrusion on his rights or trespass upon his property or privacy. He was utterly blinkered to the needs of others. The real consequence of the strong picture of the second respondent's determined non-engagement was that it disclosed an inability to recognise any viewpoint or needs beyond his own. In particular, the second respondent's focus on his own rights, as he perceived them, and the influence this was likely to have had on the first respondent, precluded the respondents from recognising that there were reasonably-held concerns about the risks posed to their unborn child. The evidence about

the first respondent's insistence upon a home-birth and her refusal to engage with the medical professionals on this issue reinforced this presentation of the respondents as fundamentally lacking in insight and self-absorbed. Given that the first respondent's first child, the older sibling, had been seriously ill as a consequence of its premature birth, she should have been all the more alive to the risks of a repetition of that scenario, especially if she had a home-birth. The lack of insight on the part of the respondents meant that they could only see this as an "unfair" refusal to accede to their wishes, regardless of the risks they were blindly running in respect of the unborn child, and, possibly, for the first respondent (who had bled heavily after the birth of her first baby). There is nothing in the evidence to indicate that the second respondent's distrust of social workers has or would abate. The same may be said of the first respondent, given the second respondent's influence on her views.

[463] In some lines of cross examination, it appeared to be the respondents' intention to blame the petitioners for this state of affairs. As it was put to a witness, engagement was a "two-way street". However, in light of the respondents' determined obstructiveness and hostility, it is difficult to know what more the petitioners' social workers could have done. They reminded the respondents of forthcoming medical appointments and generally provided financial or other support to facilitate their attendance. Notwithstanding this, the respondents' attendance was extremely patchy. The first respondent did not attend appointments specifically to address her mental health. Other than further to enlist police support, the petitioners' social workers could not force entry into the respondents' flat nor compel them physically to attend at meetings at which the plans and future of the child were discussed. This, in my view, provides a highly relevant context in which to consider the respondents' criticisms that the petitioners failed to undertake parenting assessments of

them in relation to the child. So far as the petitioners were concerned, they had from the outset advised the respondents to obtain legal advice. At different points during this period the second respondent represented that he had done so but, of course, the petitioners were not to know that the subject matter of this advice was the second respondent's desire to challenge certain entries in the material held by the petitioners *about him* or about the petitioners' harassment *of him*. (Tom Bochenek's comment, that for the second respondent it was "all about him", rings painfully true.) The respondents' conduct prior to the birth of the child, their failure after its birth to attend or instruct representation at key meetings concerning the child or otherwise to take any steps in the three- or four-month period following its birth, all of these features meet the respondents' complaints of unfairness (eg the lack of parenting assessments or the condition of no contact), of the use of their mental health or vulnerabilities against them, or of the petitioners otherwise failing to take due account of those vulnerabilities.

[464] Before there could have been any prospect of undertaking parenting assessments, there required to be contact by the respondents with the child. In my view, the respondents are largely responsible for this state of affairs. As noted above, in the period immediately following the birth of the child, they took no steps to obtain contact. The respondents failed to attend (or instruct representation at) any of the hearings or planning meetings concerning the child. In adopting this course of action, there was no prospect of influencing the petitioners' plan for the child even after it was born. On the evidence, they were advised from the outset and repeatedly thereafter to obtain legal advice. At certain points in the chronology, the second respondent asserted that he had instructed solicitors. There was nothing in the evidence to suggest that the respondents could not have had recourse to legal advice. The second respondent led the petitioners to believe that he was actively pursuing

this. One of the unexplained features in the evidence is why, if this were so, the respondents did not instruct attendance at any of the hearings or meetings or have their agents advise the petitioners of the respondents' views. This would have been the obvious means to overcome the challenges posed by the respondents' mental health and post-natal depression and the serious illnesses of the second respondent's father (when that emerged). For reasons that were left unexplored, however, this was never done.

[465] Furthermore, in my view, the respondents' quiescence cannot be wholly explained by the factors they appear to rely on for this purpose. Even if the first respondent was affected by post-natal depression, the same could not be said of the second respondent. At this point in time, the terminal illness of his father had not yet manifested itself. Either as a supportive partner to the first respondent or as an engaged parent of the child, the second respondent could have attended these early meetings or instructed his own legal advisers to attend or make representations on his behalf. Nor can responsibility for this be shifted to the petitioners, as the respondents sought to do. By this point in time, the second respondent, at least, had stated on several occasions that he had obtained legal advice. In the petitioners' experience, in the vast majority of cases parents deprived of contact from birth take steps to challenge this. Taking these features of the evidence together, there was no substance in the charge that the petitioners acted unfairly or in a less than transparent manner in their dealings with the respondents or in obtaining the original *interim* orders. It is clear from the chronology that the petitioners' social workers repeatedly endeavoured to apprise the respondents of their plans for the child. They endeavoured to do so in meetings and also by sending texts to the respondents from time to time. Apart from two instances (see the cross-examination of Kerry Parsons, to the effect that one of her early letters in November 2016 was sent to a former address of the respondents and the cross-examination of Debbie

Adamson that there was no letter or meeting on 7 July 2017), there was no suggestion that the respondents did not receive these communications. (On the evidence, it is unlikely that they would have attended.) If they chose to ignore these communications, as the evidence would suggest, the responsibility for allowing the order for no contact to go unchallenged rests firmly with them. It is in this context that the evidence of some of the petitioners' witnesses (Debbie Adamson and Lesley Stevenson), that had the respondents engaged after the birth of the child the conditions of no contact might have been changed, is most telling. While the respondents might have regarded this evidence as indicative that the terms of the interim orders from birth were unjustified, the hard but inescapable fact is that their failure to challenge this necessarily temporary state of affairs allowed it to become the status quo and which, for reasons explained by Dr Edward, it becomes damaging to disrupt.

[466] A major plank of the petitioners' case to establish the threshold test was the respondents' chronic non-engagement with social work and medical professionals. I have set this out in detail above. I accept that the evidence disclosed this pattern of behaviour on the part of the respondents. I also accept, as the petitioners contended, that this is highly material to the threshold test. What the totality of that evidence disclosed was a chronic lack of insight by each of the respondents into their own problems or weaknesses, and a consequent inability to recognise that they each needed significant support in order safely to parent the child or to accept the support offered. That pattern of behaviour revealed itself in Gloucestershire and ultimately led to the adoption of their first child, the older sibling. It is not that the respondents intended any harm. Rather, even with a considerable level of support, they failed to exhibit the capacity or commitment adequately and safely to parent the older sibling. I have considered very carefully the evidence led which may, in part, explain that behaviour. This evidence included the difficult upbringings of the respondents,

the mental health difficulties each grappled with (including the retrospective diagnosis of the first respondent's post-natal depression), and the vulnerability and immaturity of the first respondent. Gloucestershire social services provided a very high degree of support to help address the complex needs of the respondents in order to facilitate their parenting of their first child. However, as the evidence disclosed, ultimately neither of the respondents was able adequately to discharge parental responsibilities and they each abandoned the older sibling less than two months after its discharge from hospital. In other words, by about the age of four months it was necessary for Gloucestershire social services to consider alternative carers and eventually, parents, for the older sibling.

[467] The chapters of evidence concerning the respondents' interactions with Gloucestershire social services and their failures in respect of the older sibling demonstrated overwhelmingly that the respondents were unable safely to parent the older sibling without significant support. The evidence of their interactions with Gloucestershire social services and, thereafter with the petitioners, amply demonstrated that they were also incapable of working consistently and responsibly with support offered by medical and social work professionals to assist them in minimising the risks to any child in their care. Unfortunately, the pattern of behaviour exhibited in Gloucestershire repeated itself in Fife. The respondents' conduct did nothing to allay the petitioners' social workers' concerns; it reinforced them. The first respondent demonstrably could not meet the emotional and developmental needs of the older sibling. (Those emotional and developmental needs are likely to become more complex as the child matures.) In my view the first respondent is likely in future to continue to be unable to do so in respect of the child, particularly as she continues to have so little insight into her own needs and the support she requires in order adequately or safely to parent a child. On the evidence I have accepted, I find that the

threshold test has been met in respect of the first respondent. The child's residence with the first respondent is likely to be seriously detrimental to its welfare. The second respondent was incapable of working consistently and responsibly with social work or medical professionals by reason of his distrust of and antipathy toward them. In the light of the evidence I have accepted, I find that the threshold test is also met in respect of the second respondent. It would be seriously detrimental to the welfare of the child if it were to reside with the second respondent.

[468] In respect of the second respondent, I am fortified in this view by the evidence of the second respondent's lack of contact with his other, older children, to which I now turn.

The second respondent's lack of contact with his other birth children

[469] There was a short chapter of evidence concerning the other birth children born to the second respondent and his prior partners. The second respondent had four other children, all older than the older sibling, living in the Fife area. There was no suggestion he was precluded from having contact with them (eg by reason of a court order). Notwithstanding this, the second respondent had no contact with and, seemingly, discharged no parental oversight or responsibilities in respect of, any of his other children. Such explanation as there was appeared to be that he had not been ready to participate in their lives in that way. He had taken no steps to have contact with any of his four older children. Indeed, he was unable to provide the names or ages for all his four other children. Though a small chapter of evidence, this is eloquent of the absence of the qualities of consistency and commitment, which are some of the most essential attributes a parent needs safely and adequately to parent a child.

Conclusion on the threshold test and consideration of the second incidental legal question

[470] In summary, these chapters of evidence demonstrate overwhelmingly that the respondents were unable adequately or safely to parent the older sibling without significant support. The evidence which I have accepted amply demonstrates that each of the respondents was incapable of working consistently and responsibly with support offered by medical and social work professionals for this purpose. By reason of each respondent's inadequate capacity and absence of consistent commitment safely to parent the child, it would be seriously detrimental to its welfare for either to have care of the child. In light of all of the evidence I have accepted, I find that the threshold test has been met in respect of each respondent. Given the dispute between the parties on the second incidental question, I should indicate that in considering the threshold test in relation to the first respondent, I have taken into account her relationship with the second respondent. (I have analysed features of that relationship, above.) Equally, I have taken into account the second respondent's relationship with the first respondent, in considering the threshold test in relation to him. I accept as correct the first respondent's submission, with which the petitioners concurred, that this approach is consistent with the terms of section 84 of the 2007 Act and that in its application the threshold test is concerned with "a person" who has the rights mentioned in section 2(1)(a) of the Children (Scotland) Act 1995 in respect of a child. It is not necessary therefore separately to assess the respondents "as a couple". I reject the second respondent's contention that it is unfair to take into account the second respondent's relationship with the first respondent. As I understood the second respondent's argument, there was potential for unfairness if that relationship is taken into account but without affording one parent an opportunity to be assessed, on condition it separates from the other parent. This is not one of those cases. In this case, the respondents'

relationship is an element I have had regard to in the view I have reached on the threshold test in respect of each of them; it did not tip the balance. I have already found that the threshold test was met in relation to each of the respondents considered individually.

The welfare and minimum intervention principles (in subsections 83(4) and (3)) of the 2007 Act

[471] What next falls to be considered is the paramount consideration of the need to promote the welfare of the child throughout its childhood (*per* section 83(4)) and whether it would be better for the child for a permanence order to be made than not (*per* section 83(3)). (While there was a challenge to some chapters of evidence as not relevant to the threshold test, there was no suggestion that any chapters of evidence had to be disregarded for the purposes of the welfare and the minimum intervention principles.) The evidence I have canvassed for the purposes of the threshold test is relevant to these issues. That evidence amply supports the conclusions that the grant of permanence orders would promote the need to safeguard and promote the welfare of the child throughout its childhood and that it is better for these orders to be made than not made. I turn to consider the additional chapters of evidence.

The evidence of Dr Edward

[472] The parties disagreed fundamentally as to whether Dr Edward's evidence could be taken into account as part of the consideration of the threshold test or whether this only became relevant for the purposes of subsections 83(4) and (3), if that stage were reached. Given that I have found that the threshold test has been met, without having regard to the evidence of Dr Edward, I need not resolve the dispute whether, as a matter of law, I was precluded from doing so at the stage of considering the threshold test (as the respondents

contended). In any event, that evidence is in my view relevant and reinforces the conclusion I have reached. I have already discussed her evidence when I dealt with the objection to it, at an earlier part of this opinion. Dr Edward formed the view, based on her own discussions with the respondents, that they were unable to understand the need for the kind of social work support they so strongly resisted. She also concluded that they showed little insight, even now, into the needs of the child and the impact on it of a disruption of its present attachments. This is weighty evidence in support of the welfare and the minimum intervention principles. Dr Edward's conclusions were not predicated on the narrative provided by Debbie Adamson (which was contended to be incomplete or lacking balance) or on the documentation or on her understanding of the chronology. Furthermore, Dr Edward's essential evidence concerned the adverse effect on the child of the disruption of its present well-formed attachments. There was no challenge to this finding, which I regard as an important one, and which is also highly material to the welfare principle.

The child's current placement

[473] The evidence about the child's current placement is also relevant in this context. While in short compass, the evidence about the child in its current placement with its prospective adoptive parents and the older sibling was overwhelmingly positive. I reject the second respondent's contention that the evidence on this topic was too limited. This was spoken to by Debbie Adamson, Lesley Stevenson and the child's foster carer. The child was meeting all of its developmental needs and was thriving. It is in my view a material factor, in balancing whether it is better that the Orders be granted than not that, although this would sever the respondents' parental ties, it would ensure that the child grows up in a family that includes its full-blood sibling, the older sibling. In other words, the Article 8

rights of the two siblings (the child and the older sibling) would be preserved, albeit at the cost of severing the family tie between the child and the respondents.

The curator's report

[474] I have set out the substance of the curator's report above (at paras [21] and [22], above). The curator appeared to accept the respondents' assertions in respect of certain critical matters, eg that they were unaware of the petitioners' plans to accommodate the child at birth or that they were unaware of any meetings or hearings concerning the child. In relation to the former matter, for example, the first respondent accepted in cross-examination that Kerry Parsons had attended in late November 2016 and explained the petitioners' plan to accommodate the child from birth. It was also clear from Tom Bochenek's evidence, too, that the second respondent was aware of this because he voiced his criticisms to Tom Bochenek at their meeting on 1 February 2017. Indeed, the respondents' fundamental disagreement with this and their developing antipathy towards Kerry Parsons materially contributed to their conduct thereafter in refusing contact with her or other members of the petitioners' social work department. Accordingly, the curator's observations in his report concerning an alleged breach by the petitioners of the respondents' Article 8 rights is premised on an incorrect and materially incomplete basis of fact. Further, the curator appears to have rejected the parenting assessments out of hand. (As a consequence, he was unable to form a conclusion on some of the statutory factors.) For the reasons already explained, I accept the substance of the parenting assessments, as augmented by the other evidence I have heard and accepted. In the light of the findings that I have made, which are largely inconsistent with the factual assertions made by the

respondents and accepted by the curator, this report offers no assistance to the court in its determination of the issues in this case.

The question of a kinship carer

[475] I next consider the question of a kinship carer. As will be recalled from lines of cross-examination of some of the Fife witnesses, the respondents sought to lay a foundation for a criticism of the petitioners for failing to consider alternative kinship carers. There was not a great deal of evidence about this, but I accept that the petitioners did not overlook this as a potential alternative. Kerry Parsons spoke to having considered this but of being unable to find any individual from either of the respondents' families who could possibly discharge this role. This evidence is consistent with the other evidence of the deep involvement of many members of the respondents' respective families in the care system. I do not accept the criticism of her evidence on the basis that it was vague or unclear on this point. She spoke to having undertaken this exercise, but could not in her parole evidence recall individuals whom she had considered. Given that she gave her evidence after a period of maternity leave and without having the benefit of being able to review the whole files, this criticism has little force.

[476] As the evidence clearly showed, at the stage when the petitioners were considering this, the respondents had disengaged from any cooperation or meaningful contact with the petitioners. None of the family members of the respondents considered by the petitioners was appropriate or able to discharge the role of a kinship carer. There was no force, therefore, in the criticism that full kinship assessments were not undertaken. In the light of the respondents' obstructiveness, it ill behoves them months later, at proof, to raise for the first time the prospect of kinship carers or to criticise the petitioners for failing to undertake

further investigations. The reality is that even during the course of the proof, the respondents never identified anyone from either of their families who could be assessed for this purpose. At its highest, the second respondent referred to an unnamed cousin but this individual was not called to give evidence. It would remain entirely speculative, therefore, even now, as to whether there might have been an individual from the respondents' families who could have been a kinship carer of the child. The petitioners are enjoined to consider realistic alternatives to the Orders sought. No realistic alternative was available to them in this case. They cannot be criticised for failing to find what, on the evidence, does not appear realistically to exist. Accordingly, a kinship carer is not a realistic alternative to the Orders sought.

Conclusion on the welfare and the minimum intervention principles

[477] What alternative, then, is there if the Orders sought are refused? It is simply not viable to consider returning the child to the care of the respondents and, as their counsel made clear, rehabilitation was not sought. It is not entirely clear what they envisage is to happen, if the Orders are refused. It would appear that they oppose the grant of the Orders with a view to preserving the possibility of their having some contact with the child at some future point. Even if there were a prospect of some contact, the effect of this falls to be considered. Apart from during its first few hours of life, the child has had no contact with the respondents. Any resumed contact with them would necessarily entail a degree of disruption of its present attachments, and its foster family's own expectations, to transition to some form of contact with the respondents. Even if that were contemplated, on the evidence I find that the respondents are unlikely to be able to provide the kind of especially attuned care of which Lesley Stevenson spoke. Furthermore, there is the unhappy history

that, even in respect of a child with whom the respondents had some contact in its early months (ie the older sibling), they were unable to sustain contact with it. In other words, on past experience it is likely that the disruption to the child (and its foster family) and the introduction of its birth parents into its life, is unlikely to be balanced by the development of a sustained or positive relationship with its birth parents. (I am fortified in this approach, as Lord Glennie undertook a similar balancing exercise between the impact of attempted rehabilitation and the failure of that as against the settled current circumstances of the children, in *West Lothian Council (Re: A and B)* [2016] CSOH 50 at paras 96 to 104, albeit he did so as part of his consideration of the threshold test.) Leaving aside the respondents' objectives in opposing the Orders, if the Orders are refused the practical consequence will be that the child will continue to reside with its present foster family and the older sibling. Short of adoption, however, it will not become a full member of that family (in terms of its legal status). The child will be left for the foreseeable future in limbo in the care system. This is an unpalatable prospect when one considers the consequences of being a looked after child in the care system. There would be the requirement for hearings on an annual basis (or more frequently, were the respondents to request this), and the production of reports. It would also mean imposing on the child knowledge inconsistent with the family life it is experiencing; in other words, at some point the child would be burdened with the knowledge that the family it has hitherto assumed was its own, was not its birth family. At some point, too, it would require to express its own views on the issue of contact, and the inevitable conflicts of loyalties or other complex, emotionally unsettling questions that may engender. Lesley Stevenson's evidence, of the adverse effect of leaving children in the care system for prolonged periods, is highly relevant. The child would come to realise it was different from its older sibling, in that its foster parents would not have the same say in

major decisions involving it that they do in respect of its sibling, the older sibling. The difference in treatment is unlikely to be beneficial.

[478] If the permanence orders are not made it is likely that the child would remain within the care system throughout its childhood. This is because it is highly unlikely that the respondents could work with professionals toward rehabilitation. Even if that were a realistic prospect at some point, there is the evidence of Dr Edward of the profoundly adverse consequences of disrupting settled attachments and the increasing difficulty of reforming new ones when this has happened. Apart from the subjective perceptions of the respondents as to their parenting skills in relation to the older sibling, and their untested assertions that they would work with social workers, there was no evidence that could possibly support sustained contact of the child with, much less its rehabilitation to, the respondents. Overall, and consistently with the welfare principles, all of these factors point towards achieving certainty for the child at this stage in its young life and the making of the Orders sought.

[479] In relation to the minimum intervention principle, the stark choice is in granting the orders sought (including for adoption) and conferring certainty and finality for the child in its present placement with the family members it has known for the last year, or leaving the child in limbo in the care system. In my view, it would also be inconsistent with the welfare principle to continue for an uncertain period of time without determination of its legal status, which would be the practical effect of refusing the orders. Certainly, I do not regard the child being in a state of limbo in the care system for a prolonged period as consistent with the need to promote its welfare throughout its childhood; rather, the reverse would be true. The need to promote the welfare of the child throughout its childhood would not be

paramount but would be subject to the unresolved intentions of the respondents in relation to it.

[480] In considering whether it is better to make the order than not, there is little in the curator's report that assists on the matters that fall to be addressed in terms of section 84(5)(a) and (b). The child is only 21 months old and, obviously, cannot express its own view (for the purposes of subsection 84(5)(a)). There was no suggestion that there was any dissonance, as it were, in terms of the matters in subsection 84(5)(b)(ii) and the prospective adoptive family. The likely effect on the child of the making of the order per subsection 84(5)(b)(iii) is, in my view, to be wholly positive. The child has now resided with its prospective adoptive family for about one year. It is living with its older sibling and is forming close and positive attachments with it and its prospective adoptive parents. Other than the formal severing of ties to the respondents, of whom the child will have no memory, there is no discernible adverse effect on the child in the grant of the orders.

[481] In the whole circumstances, and having regard to the welfare principle, I find that it is better to make the permanence orders sought than not.

Authority to adopt in terms of section 83 of the 2007 Act

[482] As noted above, the potential basis for granting authority to adopt in this case is that contained in section 83(3), concerning the respondents' parenting capacity. Many of the chapters of evidence that support the grant of the permanence orders are also relevant to the question of whether to grant authority to adopt. These chapters included the respondents' failure to engage with professionals to protect the best interests of the child before its birth, their failure to attend medical appointments for this purpose and their failure to cooperate in the child protection process. These failures continued in the period following the birth of

the child. In respect of medical treatment, the respondents declined to grant the necessary consents for immunisation. More fundamentally, the respondents failed in their obligation to attend the Children's Hearings in relation to the child or to pursue any contact with the child until after the passage of many months. Significantly, they failed to do so even at the Children's Hearing called in July 2017 specifically for this purpose. It is also telling that they failed to express any interest in the child. Simply asking for photographs is, in my view, woefully inadequate as a measure of parental commitment. The unlikelihood of their being able to change is amply vouched by their similar conduct and feelings toward their first child, the older sibling, less than a year before the birth of the child. In the light of the evidence I have relied on in making the determinations I have already made, I also find that each of the respondents is unable satisfactorily to discharge his or her parental responsibilities or to exercise the parental rights each has in relation to the child.

[483] Furthermore, I find it likely that each will continue to be unable to discharge his or her parental rights and responsibilities. As the chapters of evidence spoken to by the Gloucestershire witnesses disclosed, the respondents were unable adequately or safely to parent the older sibling even with significant support. The reasons for that are manifold and have already been canvassed fully in this opinion. The principal bases of concern subsisted after the respondents moved to Fife. Again, in the chapters of evidence spoken to by the petitioners' witnesses, the respondents remained demonstrably incapable of recognising that they needed significant support in order safely to parent a child. Rather, those chapters of evidence confirmed that the respondents were incapable of working with social work and health care professionals in any consistent, sustained or responsible way. Nothing in the protestations of the respondents to the contrary persuades me that they would accept such support or work with social work professionals in the future. I refer to, but need not repeat,

the wholly positive aspects of the child's current placement. It is likely to be placed for adoption (per section 84(1)(b)) and, if authority is granted, to be adopted by its current foster family. Furthermore, for the reasons already canvassed there is no better or realistic alternative for the child short of adoption. Accordingly, I find that the petitioners have established that authority to adopt should be granted and that it would be better for the child if the court were to grant authority to adopt than if it were not to grant such authority.

[484] In relation to the factors in section 14 of the 2007 Act, I have had regard to all the circumstances of the case, including as the paramount consideration, the need to safeguard and promote the welfare of the child throughout its childhood. If adoption is granted, the child will become a full and permanent member of the only family it has realistically known from the first six months of its life. This option provides the best (and only realistic) prospect of it becoming part of a supportive, stable and permanent family unit. It has the significant additional benefit, in this case, of ensuring that the child shares that stability and support with its older sibling and on equal terms. I have already commented on the other factors concerning the child's views, and, of course, the views of the respondents as its parents are irreconcilable with adoption. In my view, their preference that the orders not be granted are not conducive to the welfare of the child. I find that the welfare of the child requires that I dispense with their consent, for the purposes of section 83(2)(d).

[485] It follows that the petitioners have met the statutory tests for the Orders sought. As requested by the parties, I shall put the case out by order for discussion of the court's interlocutor. I reserve meantime all question of expenses.

APPENDIX 1:

Chronology of the interactions between the respondents and the petitioners' social workers and the health professionals

Preliminary comments

[486] As noted in the opinion, the petitioners lodged a total of 15 affidavits including ten from members of their social work department. There was a considerable amount of repetition in their evidence in relation to the chronology of the interactions between some of these witnesses and the respondents. I omit this repetitive evidence. No joint chronology was produced. The parties each produced their own chronology and commented on the others. What follows incorporates those areas of agreement reflected in the parties' revisals to each other's chronologies or as recorded in the Joint Minute. However, where what follows extends beyond the non-contentious issues, I do indicate matters that are disputed. While the social work file contained further entries from August 2017, little evidence was led about these.

Part A: prior to the birth of the child: from 2 November 2016 to early February 2017

[487] In about the third week of October 2016 the respondents travelled from Gloucester to Fife. The purpose was to visit the second respondent's mother, who was terminally ill. It was not the respondents' intention, then, to move permanently to Fife, although they quickly resolved to do so.

[488] 2 November 2016: Kerry Parsons, the social worker allocated to the child, had her first meeting with the respondents at the premises of a relative of the second respondent. At that time the first respondent was still a looked after child for whom Gloucestershire social

services were responsible. The first respondent had not advised them that she was going to Fife, in breach of one of the conditions of her care. (As will be seen, the petitioners characterised the respondents as "fleeing", which the respondents deny.)

[489] 3 November 2016: Kerry Parsons contacted Gloucestershire social services and arranged for the child to be placed temporarily on the child protection register in Scotland.

[490] 4 November 2016: Kerry Parsons conducted a second child protection visit, at the premises of another relative of the second respondent. It is clear from the file note that by this time she had a considerable amount of information from Gloucestershire social services and that she sought to put some of this to the second respondent for comment. Among this information was an allegation of indecent assault against a five-year-old, which the second respondent denied. The second respondent stated that he had never been arrested or interviewed in respect of this allegation. (This is consistent with the documentary materials produced to this court. I did not understand the petitioners' counsel to found on this at the end of the proof.) As will be seen, some reference was made to this allegation as a concern, in some later documentation by the respondents. This angered the second respondent.

[491] 4 November 2016: Kerry Parsons sent a letter to the respondents informing them of the transfer child protection case conference ("TCPCC") to take place on 18 November 2016. That letter stated that it was important for them to attend so they could put forward their views. They were also asked to contact Kerry Parsons to advise if they had any difficulties in attending that meeting.

[492] 11 November 2016: Kerry Parsons undertook a third child protection visit with the respondents at a third address, being the home of another relative of the second respondent. The file note for this meeting recorded that the second respondent had attended his mother's funeral the previous day and that he was obviously upset.

[493] 16 November 2016: A file note recorded that a member of the second respondent's family called the social work department to advise that the second respondent had "been under the influence of alcohol continuously for a number of days" and had gone missing. It also recorded the first respondent reporting the second respondent's drinking to this same relative. This same member of the second respondent's family reported finding the first respondent upset because the second respondent had left. This family member wished the respondents to leave her property because of the second respondent's drinking. The same family member raised concerns regarding the respondents' "ability to parent" and reported being concerned that they were "unable to care for a baby properly" and that the second respondent was taking more medication than was necessary. (The respondents do not agree the contents of this file note.)

[494] 16 November 2016: There is a separate file note of a call to the first respondent, who is recorded as stating that the respondents had moved out of the home of the relative of the second respondent where they had been staying (having been asked to leave), and that they were now homeless.

[495] 17 November 2016: Kerry Parsons undertook a child protection visit at a fourth address, being a private tenancy secured by the respondents. After noting the relatively sparsely furnished accommodation, the file note recorded that Kerry Parsons shared the terms of her report, dated 14 November 2016, for the forthcoming TCPCC scheduled for 18 November 2016. This included Kerry Parson's recommendation that the child be placed on the child protection register and also that a child protection order be sought from birth. The second respondent was recorded as becoming "argumentative", calling social workers "liars" and stating that there were no concerns. The second respondent was also recorded denying hair strand test evidence and also stating that the allegation of sexual abuse against

him should not be a reason for removal of the child. Kerry Parsons challenged the second respondent as being "dishonest with social work". The note described him becoming angry and stating that the police had no right to enter his home. The first respondent was recorded as stating that she will not give her baby to anyone and that social work would not remove the baby. They were described as disagreeing that there was any cause for concern. Kerry Parsons advised them to get legal advice. The file note also recorded the first respondent stating that, after she ceased to be a looked after child (that is, on turning 18) in two weeks' time, she did not intend to engage with any services thereafter. Kerry Parsons explained her role was as the social worker allocated to the unborn child (ie not for the first respondent), and the purpose of it being placed on the child protection register. The first respondent stated that she planned to have a homebirth and that she would not be alerting medical staff when that happened. There was also reference to the first respondent alluding to the possibility of moving from the area but being "vague" about this. The file note also recorded Kerry Parsons again advising the respondents to obtain legal representation and that they had the right to attend the TCPCC and put their views forward. (The first respondent did not agree that she had stated that she did not intend to engage with social work once she turned 18, but, again, this was not challenged in evidence and I accept this part of the file note.)

[496] 17 November 2016: The respondents attended at the petitioners' social work office. While the respondents agree that this occurred, they do not accept the description that the second respondent was "verbally aggressive" towards the administrative staff or that he refused to speak to social workers or to give his name, or that the second respondent stated that Kerry Parsons, who had appeared by this point, would be "charged with slander" (see number 6/25/27 process).

[497] 18 November 2016: A TCPCC took place on this date, the outcome of which was to place the child on the child protection register under the categories of neglect, emotional abuse and parental mental health. The petitioners agreed a child protection plan. Among the actions agreed was to place the child's name on the child protection register and to have a plan once it was born. It was agreed that there would be weekly contact meetings between the social work department and the respondents, and four-weekly core group meetings to monitor the child protection plan. The parents were also advised to get legal advice. The respondents did not attend the TCPCC. (While the respondents admit this, they do not accept that Kerry Parsons had encouraged them that morning to come or that she had offered bus tickets (or a refund of the same) in order to facilitate their attendance. Nor do they accept that, when they stated that they had no money, she offered to pay for a taxi and to wait for them outside the council offices and to pay for the taxi on their arrival.) The first respondent indicated that the meeting should go ahead without her; that she feared it would be too stressful and might bring on early labour, as had occurred with the older sibling. (Again, in the absence of challenge to the veracity or accuracy of this file note in the oral evidence I accept its content is proved.)

[498] 22 November 2016: An announced child protection visit took place at the respondents' address. Kerry Parsons advised the respondents of the outcome of the TCPCC, which had taken place four days earlier in the absence of the respondents. Kerry Parsons explained the requirement for weekly child protection visits, and also the concerns about the respondents' parenting ability, mental health issues and the concerns Gloucestershire social services had surrounding their first child, the older sibling. The file note recorded the second respondent stating that the social work department could not use his mental health against him and it recorded Kerry Parsons' reply, to the effect that it was not his mental

health but how this would impact on his ability to care for the child and to provide safe parenting. The file note recorded the second respondent advising that he had obtained legal advice. Reference was also made to the photographs provided by Gloucestershire police showing the state of the respondents' previous tenancy, and their denial of it having been left in the state portrayed in the photographs. The file note also recorded the first respondent's wish for a home-birth and the social work concerns about this. The file note also recorded Kerry Parsons' perception that the second respondent was encouraging the first respondent to have a home-birth, a matter which the second respondent disputed.

[499] 28 November 2016: Kerry Parsons conducted a further child protection visit at the respondents' flat. While this was initially intended to be unannounced, Kerry Parsons attended in order to drop off bus tickets to enable the first respondent to attend an appointment with a midwife later that same day. The file note recorded a discussion of the birth plan for the child and the social work concerns about a home-birth, of the implications of the first respondent's maternity care being consultant-led (because of the first respondent being at higher risk, given the circumstances of the premature birth of her first child, the older sibling). The file note recorded Kerry Parsons' assessment that the respondents failed to appreciate the significance of this (they "lacked insight"). It also recorded that Kerry Parsons advised them again to seek legal advice regarding the social work recommendation that a child protection order be sought and that the second respondent stated that he had met with a solicitor. This file note also recorded the second respondent disagreeing with what was contained in the minutes of the TCPCC. It is recorded that he agreed to having met the first respondent when she was 12 but that they did not start a relationship until she was 16. (This last statement was challenged in the proceedings before me.)

[500] 28 November 2016: There was a further file note on this date, of Wendy Johnstone, the midwife, confirming that she had met with the respondents and had explained her role in the interim child protection process. It also recorded Wendy Johnstone advising the respondents of the consequences of a home-birth and the advice of the health professionals, which was against this proposed course. Wendy Johnstone stressed that the first respondent must attend at hospital if she went into pre-term labour. (The respondents challenge that part of the file note recording that they sought a refund of the bus tickets from the hospital, notwithstanding these had been provided by the social work department.)

[501] 29 November 2016: Kerry Parsons carried out an announced child protection visit in the company of another social worker. Positive comments were recorded in relation to the furnishing of the premises and the first respondent's physical presentation. It also recorded the second respondent stating that there was a dispute amongst his family about his having inherited money from his mother. The file note recorded some concern after the second respondent reported that he purchased a new PlayStation and a new phone given that the previous day he had been requesting food bank vouchers. (Again, the second respondents dispute the veracity of this last part.)

[502] 1 December 2016: A letter was produced on this date addressed to the respondents, albeit using their former address, informing them of a core group meeting scheduled for 13 December 2016. (The line of cross of Kerry Parsons was conducted on the basis that the respondents had moved from this address by this time.)

[503] 2 December 2016: A file note recorded a call from Talia Underwood, the first respondent's own social worker from Gloucestershire, explaining that the first respondent was entitled to six weeks of backdated money and a setting up home grant. This file note also recorded that the first respondent had been in touch with Talia Underwood requesting

money and Talia Underwood explaining to Kerry Parsons that cash would not be provided to the first respondent but food would be. (Again, the respondents do not accept the contents of this call. However this was not challenged in evidence and I accept the contents of this file note.)

[504] 2 December 2016: A file note of this date recorded an incident in which an unnamed person (the name was redacted in the productions) had contacted the police with concerns because the second respondent was stating that he wished to kill himself so he could be with his deceased mother. It also recorded the police attending at the second respondent's home; that he stated that he wished to end his life; and that he was conveyed voluntarily to the Victoria Hospital by the police but he left prior to being assessed. The police thereafter traced him and found him to be safe and well at home.

[505] 5 December 2016: There are several file notes recording text exchanges between Kerry Parsons and the first respondent in relation to her attendance at the hospital for a scan on that date. The first respondent's texts were received about an hour or so before the scheduled ante-natal appointment at the hospital. There was reference to offers from the social work department advising that the respondents had been warned earlier to arrange to attend, that bus tickets would be provided and that the hospital would refund travel costs. It was suggested that they contact the hospital to see if a later appointment that same day was possible. It was recorded that bus tickets would be available for collection from the social work office for this purpose. A separate file note on the same date recorded text exchanges in which the first respondent explained she was not available for a child protection visit to take place with Kerry Parsons (she was "too busy") and Kerry Parsons' reply that the first respondent was required to meet with her on a weekly basis because the

child was on the child protection register. That same file note recorded the first respondent refusing to allow Kerry Parsons to attend at the property because "its private property".

[506] 6 December 2016: There was a file note of a call from of a family member of the second respondent (the identity is redacted) reporting concerns that the second respondent was asking for money from his family but was refusing offers of help in kind by way of food, gas or small electrical items, as he was insisting on cash. The family member expressed concern that the second respondent wanted cash to use to spend on alcohol. Other concerns were recorded to the effect that the second respondent had already spent his benefit money; that the first respondent was not eating properly; and that the second respondent was not accepting help from his family but was blaming them. The informant also advised that the second respondent had called the police on his mother (sic). (The respondents do not agree the terms of this file note.)

[507] 7 December 2016: There was an unsuccessful unannounced child protection visit to the respondents' flat. The respondents were observed within the premises but refused to give access or open the door. Calls to the first respondent's phone were terminated. As the respondents were refusing entry, Kerry Parsons left. (Again the respondents do not agree the terms of this file note other than to accept that there was a child protection visit.)

[508] 9 December 2016: The respondents were recorded as attending at the petitioners' council offices at 2.05 pm and requesting bus tickets in order to attend an antenatal appointment at the hospital scheduled for 2.50 pm. They were unsure whether the appointment was for a scan or blood tests. Bus tickets were provided. Notwithstanding this, the respondents failed to attend for the scan appointment. (Their non-attendance was confirmed in a file note of a call on 20 December 2016 from the midwife, Wendy Johnstone.

The second respondent confirmed he was refusing Kerry Parsons entry to their flat. (The respondents do not accept this part of the file note entry.)

[509] 12 December 2016: The respondents attended at the social work office to collect bus tickets for a hospital appointment scheduled for that afternoon. Bus tickets were provided. While the respondents attended hospital, they left after 15 minutes and before they were called for their appointment.

[510] 13 December 2016: A core group meeting was held on this date but the respondents did not attend.

[511] 15 December 2016: A child protection visit was undertaken jointly with a representative from Gloucestershire social services, Talia Underwood. The respondents do not accept those parts of the file note which recorded that the first respondent had indicated in her initial text exchanges that only Talia Underwood would be given access.
Kerry Parsons was only able to gain entry because Talia Underwood had refused to visit on her own. The occasion of the visit was the 18th birthday of the first respondent. The first respondent requested a fridge freezer, washing machine and a sofa for the living room and Talia Underwood agreed to order these items. Her offer of a food parcel was rejected, notwithstanding that the respondents were regularly contacting her for cash but which Talia Underwood refused to provide. Kerry Parsons raised the issue of the respondents' lack of engagement for the preceding weeks (eg the failed child protection visit, the non-attendance at the core group meeting and three missed medical appointments). The second respondent denied missing medical appointments. He explained that on 9 December 2016 when they arrived at hospital, they were told they did not have an appointment, and on 12 December they were fed up waiting. (The midwife, Wendy Johnstone, subsequently confirmed there was an appointment on 9 December 2016.) Kerry Parsons advised that the first respondent

was assessed as a "high risk". The file note recorded the first respondent insisting that she still intended to have a homebirth and that it was "her choice and no one [could] stop her". The first respondent is recorded as stating that he "had no need to engage with [Kerry Parsons] as he is not open to social work". Kerry Parsons and Talia Underwood explained that Kerry Parsons' role was as a social worker to the unborn child. The first respondent is recorded as stating that she no longer needed to work with social work because she was now 18. Both respondents were recorded as adamant that there was no requirement to engage as they were both now over 18. The second respondent maintained that Kerry Parsons had no right to meet with him but that he would allow her to meet with the first respondent.

[512] 20 December 2016: a child protection visit was undertaken by Kerry Parsons together with another social worker and a food bank voucher was provided to the respondents. As the food bank was not open for a further three days, the respondents were also provided with a food shop of essential items. The file note also recorded an exchange with the first respondent, whose blood tests indicated a low iron count, and Kerry Parsons emphasising the importance of her attending her next hospital appointment on 28 December 2016. Kerry Parsons noted additional furniture items, including a bed frame and mattress and fridge and washing machine provided by Gloucestershire social services. Kerry Parsons recorded that the respondents were "chatty throughout the visit in comparison to other visits". In response to the first respondent's wish to have a home-birth, Kerry Parsons advised that this required to be discussed with health professionals and that the first respondent needed to engage with them to allow them to make plans for the upcoming birth of the child. The second respondent is recorded as maintaining that he will not be engaging with respect to the child's plans and will not meet with social workers. It was agreed with

the first respondent that she would meet with the midwife and Kerry Parsons after the Christmas period.

[513] 20 December 2016: The midwife, Wendy Johnstone, confirmed to Kerry Parsons in a phone call that there had been an appointment for the first respondent on 9 December 2016, which she did not attend. She also confirmed that on 12 December the respondents appear to have left the hospital reception after 15 minutes.

[514] 28 December 2016: The first respondent attended an ante-natal check at the hospital.

[515] 29 December 2016: Debbie Adamson undertook a child protection visit and provided a food bank voucher to the respondents.

[516] 4 January 2017: The first respondent attended a hospital appointment.

[517] 5 January 2017: Social workers Sarah Braid and Laura Shanks undertook a child protection visit. The second respondent permitted entry on that date and provided the respondents' new mobile numbers. The first respondent explained having had to change these due to verbal abuse from someone (the name of the person is redacted).

[518] 9 January 2017: Kerry Parsons recorded a number of text exchanges with the first respondent. Kerry Parsons's purpose had been to call the mobile numbers (recently provided by both respondents) to remind them of the first respondent's appointment with the midwife. The note recorded that both numbers rang only once before going to voicemail. The first respondent then texted and challenged her and how she had obtained her new number. After reminding the first respondent of her agreement to meet with the midwife, the first respondent texted in reply "we're not seeing you". She went on to text that "Im (sic) having home birth (sic) no matter what" and that the midwife would not be allowed to attend at the birth.

[519] 10 January 2017: This file note recorded another attempted child protection visit at the respondent's flat together with the midwife, Wendy Johnstone. The second respondent attended at the door, but would not permit Kerry Parsons or Wendy Johnstone to enter. Wendy Johnstone explained that the purpose of the visit was to assess the suitability of the home for a home-birth and that this was necessary before any midwife would be available to come to the property. Notwithstanding this, the second respondent is recorded as stating that Wendy Johnstone would not be coming into his "private property". Kerry Parsons also tried to explain the requirement for weekly child protection visits to see the first respondent. The file note recorded that the second respondent stated that "no one was allowed in the property and that [Kerry Parsons] would not be allowed access at all". Kerry Parsons explained that if access continued to be refused then the help of the police might be enlisted, to which the second respondent stated that they would not be coming into the property. The second respondent was described as angry that his mobile number had been provided to social work. The second respondent slammed the door shut. Kerry Parsons' comment, recorded at the end of the file note, was to express concern that this was the second child protection visit where entry to the property had been refused. She also posited that, as they did not need money, they were refusing to cooperate with social work. (The respondents do not agree with these comments.)

[520] 10 January 2017: This file note recorded that shortly after leaving the respondents' property after the failed child protection visit, the first respondent texted Kerry Parsons querying why she would be calling the police and a second text asking "why did you feel the need to still come when I told you not to and why enter [our] garden… like i said [it's] private property".

[521] 10 January 2017: The respondents were sent a letter inviting them to the core group meeting scheduled for 19 January 2017.

[522] 11 January 2017: This recorded a child protection visit undertaken by Kerry Parsons with Sarah Braid. The second respondent was encountered in the garden outside his flat but he refused them entry and the first respondent was not seen. The second respondent had stated that the social workers were not coming in today, it being the date of his mother's birthday, who had recently died. He was described as being noncommittal about agreeing a child protection visit later that week. She also recorded that the second respondent had recently come into a significant sum of money following the death of his mother. Prior to that his family had reported that he was quite desperate for cash for alcohol.

[523] 13 January 2017: In this file note Kerry Parsons recorded attending the property with another social worker, but that the second respondent again refused entry. The second respondent stated that social work were harassing him and he would be reporting this to the police. He also stated that the respondents will refuse to allow health workers to enter the property. Kerry Parsons explained the need for a health worker to enter the flat in order to assess its suitability of a home-birth, but the second respondent was noted as continuing to refuse and stating that no one including the police would be getting access to the property. Even after she mentioned enlisting the help of the police in order to carry out a child protection visit, the second respondent reiterated that nobody would be allowed entry. The file note also recorded the first respondent shouting to refuse to allow the social workers entry. The second respondent repeated that no one would be gaining entry and that "someone will lose their job over this". He also stated that he was recording all phone calls with professionals and recording those attending via a camera outside the property. The

second respondent was then noted to be becoming angry and shaking, with his phone shaking in his hand.

[524] 17 January 2017: There was an unsuccessful unannounced child protection visit on this date because the respondents were not home.

[525] 17 January 2017: Following the unsuccessful child protection visit, Kerry Parsons texted the first respondent. The first respondent was recorded as replying that the respondents "are not seeing you any more… and the police wont be coming in either". The first respondent texted that she had told Kerry Parsons to delete her private number and that she would be changing it that week so that Kerry Parsons would not have it.
Kerry Parsons texted back to ask on what number she would be able to contact the first respondent. She reminded her of the core group meeting on Thursday and of a hospital appointment on Friday of that week. The first respondent replied that Kerry Parsons would not be getting any numbers and they were both getting changed; that she did not care about the "stupid little meetings" and that her medical appointments were nothing to do with Kerry Parsons.

[526] 18 January 2017: This was a file note generated by Dawn Page, who attempted another child protection visit with another social worker (Claire Gordon). This recorded that the second respondent answered the door but refused to allow the social workers access to the property and that he continued to state that no one would be permitted access. He was described as going off on a tangent about "being persecuted" and using threats of suing agencies, and detailing his human rights and reiterating numerous pieces of legislation. He made it "perfectly clear on numerous occassions (sic)" that he would not allow access by anyone to the first respondent or her baby including by the police. He asserted that his mental health was "all down to Social Work and other agencies harassing him" and the first

respondent. He also asserted that "many lies were made up about him", to the effect that he was a sexual offender but these were unfounded. Dawn Page suggested that this was why he should attend at the core group meeting the following day so he could state all his views and have a say. Dawn Page attempted to ask after the first respondent. The second respondent stated that they were all doing well and had been checked, and then he was recorded as redirecting the conversation to his "[perceived persecution] of himself by agencies".

[527] 19 January 2017: A core group meeting was held, but the respondents did not attend.

[528] 23 January 2017: Kerry Parsons wrote to the respondents (the date of 25 January 2017 in her affidavit appears to be incorrect), advising them of a review child protection case conference to take place on 8 February 2017. In that letter she stressed that the respondents should come so they could put forward their views. They were asked to contact her if they had any difficulties attending. No reply was received.

[529] 23 January 2017: The first respondent failed to attend her rearranged scan appointment on this date, as confirmed by the file note of a phone call the following day from the senior practice nurse to Kerry Parsons.

[530] 24 January 2017: After receiving a text on 23 January 2017, to the effect that social work wouldn't be taking the child because the respondents were going on holiday, Kerry Parsons attempted an unannounced child protection visit the next day. This was because there were concerns that the family might abscond. Some blinds in the property were drawn and no one could be seen inside. She knocked but there was no answer. On leaving the property, she received a text from the first respondent stating "Do one Kerry… You aint wanted round my area". (6/25/99)

[531] 24 January 2017: Kerry Parsons returned to the respondents' flat with another social worker, as she had received a message from the first respondent that the second respondent was now home. On their arrival, they found the second respondent in the garden. He refused to allow them to enter the garden as it was "private property". The second respondent was described as "very hostile" towards the social workers and stating that they had no business to attempt to visit the home and it was harassment. Kerry Parsons explained she was visiting because social work had been informed that the respondents were going on holiday. The first respondent denied this, and stated that there was no need for a visit. The file note recorded the second respondent shouting about data protection being breached. The first respondent was described as standing inside the door so that she could not be seen, although she was described as smoking a cigarette. Kerry Parsons asked the first respondent if she would come outside as social work were worried about her and wanted to check that she was okay but it was recorded that she shouted "no". The second respondent then stated he was making a complaint because Kerry Parsons had been in contact with a social worker for one of the first respondent's siblings. The second respondent referred to "data protection/discrimination" legislation and about his mental health being used to remove the child. The other social worker present tried to suggest that this kind of conversation should not take place in the garden. The second respondent stated he didn't care and asked them to leave as he was phoning the police, which they did. (The respondents do not accept the substance of what was recorded in this file note but Kerry Parsons' evidence was not challenged in court.)

[532] 24 January 2017: A multi-agency plan was agreed on this date (6/25/102). The relative file note recorded continuing concerns due to the respondents' lack of engagement

with social workers or with professionals in the past fortnight, and the respondents' insistence on a homebirth.

[533] 25 January 2017: A file note by Mr Bochenek, team manager within the social work department, recorded the second respondent calling to complain about harassment, infringement of human rights, data protection breaches, and his mental health being used against him. By the end of the call it was agreed that Mr Bochenek would meet the respondents at their home on 1 February 2017, and that the first respondent would attend her scan scheduled for 30 January 2017. A subsequent note recorded that she attended for the scan but did not wait to see the midwife or the consultant. A letter sent the same date to the second respondent invited him to a meeting on 1 February with Mr Bochenek.

[534] 26 January 2017: There is a file note of a call from Kerry Parsons to a sibling of the first respondent who was in foster care, and who had texted earlier that day about a plan for the first respondent's mother to travel north in a few weeks' time with a view to take the child and to prevent it being taken away from the respondents. This also recorded a concern on the part of the family member that the respondents were planning on running away to prevent social work from removing the child from them.

[535] 30 January 2017: The respondents attended for a scan on this date but did not wait to see the midwife or the consultant. The midwife reported to Kerry Parsons that the scan appeared fine.

[536] 1 February 2017: Two social work Team Managers, Mr Bochenek and Tracey Burke, attended at the respondents' flat. This was a pre-arranged visit to discuss their concerns and reach a resolution to enable them to engage with the child protection plan. This file note recorded the second respondent's dissatisfaction with the minute of the core group meeting held on 19 January 2017. In particular, he disagreed with references being made to his

mental health which he felt had no bearing on the case. He objected to his medical records being shared amongst health, police and social workers. He is recorded as stating that he had a diagnosis of borderline personality disorder as well as antisocial personality disorder. He is also recorded as stating that this was controlled with his medication, although it is noted that this may not have been reviewed for some time. He stated he was no longer smoking cannabis and he was not drinking to excess. He stated he was seeking legal advice and that the public authorities were harassing the respondents and trespassing on their privacy. He denied that the respondents had fled from England. His mother had been dying and they had come north. It was put to him that the respondents had not notified Gloucestershire social services that they were leaving Gloucester. Mr Bochenek also referred to the reports and minutes which reflected the multi-agency plan and assessment. He put it to the second respondent that the social work department had been transparent and had shared all relevant information. He confirmed that the respondents were entitled to seek legal advice and that it would eventually be the sheriff who decided whether emergency measures regarding the child would be granted or not. He confirmed that parental mental health or substance misuse issues were relevant, as they could impact on the child and on the respondents' parenting. He emphasised that legal issues and disagreements could be dealt with by the respondents seeking legal advice, but the most important thing was to ensure that the child was born safely and how this could be achieved if the respondents continued to refuse to engage with professionals and to refuse to allow them entry to their property. The respondents stated that the baby would be born at home and that no one would be allowed entry. The file note also recorded the second respondent as being "very focused on his needs and what he considered as a threat and intimidation from the public authorities towards him". It was agreed that midwife services would again be contacted in

order to carry out an assessment of the respondents' flat for the purposes of a homebirth. Mr Bochenek agreed to send two different social workers each week to undertake child protection visits, in lieu of Kerry Parsons. The respondents were encouraged to attend the review child protection case conference scheduled for 8 February 2017.

[537] 2 February 2017: An internal email from Mr Bochenek referred to the recent information received from a family member about the respondents' potentially fleeing, but he recorded their statement that they had no intention of leaving Fife. He recorded his impression that there were no immediate plans to run.

[538] 3 February 2017: A child protection visit undertaken by Sandra Kendreich and Sarah Braid after they had called in advance to organise this, and to explain that they would be handing over bus tickets to enable the respondents to attend a medical appointment the following week. The first respondent was described as greeting them on the doorstep and engaging in general conversation without any signs of confrontation. The first respondent was observed as quiet but smiled. (The file note entry of the earlier call recorded that the second respondent initially refused the visit because there had been a visit by two managers earlier that week.) (The respondents do not accept that part of the file note.)

[539] 6 February 2017: Sarah Braid and another social worker carried out a child protection visit on this date. They encouraged the respondents to attend the antenatal appointment for later that day. They also provided a copy of the report for the child protection case conference. The respondents were encouraged to attend a meeting later that week.

[540] 6 February 2017: Two notes record that the respondents failed to attend for the antenatal appointment scheduled for 6 February 2017 and for which bus tickets had been provided. It was also recorded that an anonymous caller had rung to say that the bus tickets

had been advertised on eBay. A subsequent check confirmed the code numbers matched the tickets the social work department had provided to the respondents. (The respondents do not accept these entries but did not seek to challenge them in evidence.)

[541] 8 February 2017: A child protection visit was undertaken. The second respondent allowed both social workers to enter. He was recorded as speaking at length about various parts of the review child protection case conference with which he disagreed. He is recorded as stating an intention to sue the local authority for criminal damages and to ensure that certain employees lost their jobs. He denied being controlling of the first respondent. The flat was noted to be tidy and warm.

[542] 8 February 2017: A review child protection case conference took place and a child protection plan was agreed. The respondents did not attend.

[543] 10 February 2017: Two social workers, namely Shaun Patterson and Sandra Kendreich, attempted a child protection visit. The second respondent refused entry. He was described as being very hostile and stating that the social workers were harassing them as this was their third visit that week. The first respondent was seen and was described as still pregnant. The second respondent expressed his dislike for Kerry Parsons and repeated his allegation of harassment.

[544] 12 February 2017: A child protection visit was undertaken with the assistance of the police. The second respondent is recorded as stating that he was "fed up" with social workers attending and that he would be speaking to his solicitor about this. The social worker explained the need for their regular attendance and the risks involved in the respondents' continuing lack of engagement.

[545] 13 February 2017: The respondents failed to attend a scheduled hospital appointment. A replacement appointment was scheduled for 20 February 2017, and a letter sent out to advise the respondents of it.

[546] 14 February 2017: Two social workers, Dawn Reed and Sandra Kendreich, attended for a weekly child protection visit. The second respondent met them at the door and advised that he would not let them into the house. He complained about the behaviour of the police and the social worker, who had attended at the weekend. He spoke about his concerns about the content of the recent report and he advised that he was taking legal advice. He also complained about the fact that the health professionals had advised that they would not consider a homebirth. The first respondent was seen through the window and observed to be still pregnant.

[547] 17 February 2017: Two social workers attempted a child protection visit. The second respondent met them at the door and again complained about harassment and the effect this had on his own mental health. He was recorded as speaking at length about the intimidation he felt from the petitioners' emergency out of hours social work department ("EOOHS") and police visit last week. In response to a question from him, it was confirmed that there was no legal order in place as the child was unborn. Again, the first respondent was observed through the window and noted to be visibly pregnant.

[548] 19 February 2017: Two different social workers attempted a child protection visit on 19 February 2017 but were denied entry to the house. They asked several times if the first respondent would come to the door but heard her saying "tell them to piss off".

[549] 20 February 2017: The first respondent again failed to attend the rescheduled antenatal appointment fixed for this date, following her non-attendance on 13 February 2017.

[550] 20 February 2017: Two social workers attempted a child protection visit but were denied entry to the property. Sandra Kendreich explained that Kerry Parsons would resume child protection visits, given that the respondents were not permitting other social workers into the house. The second respondent was recorded as raising all of his grievances against her and that this was affecting his health. He was described as presenting as "very agitated" throughout the visit. The first respondent could be heard from kitchen telling the second respondent to shut the door.

[551] 21 February 2017: Two different social workers visited to carry out a child protection visit. The second respondent denied them access to the property stating "I want you to leave". His tone was described as "quite aggressive".

[552] The child was born the following day on 22 February 2017.

Part B: Interactions between the respondents and the petitioners' social work department after the birth of child

[553] At birth, the child was placed with a foster carer following the grant of an interim child protection order with a condition of no contact.

[554] 24 and 27 February and 6 March 2017: By statute meetings must follow on specified dates following such an order. These included the "second working day" hearing, the 72 hour planning meeting and the "eighth working day hearing". The interim child protection order was continued at the Children's Hearing on 24 February 2017. An interim compulsory supervision order ("CSO") was put in place on 6 March 2017. The respondents did not attend any of these meetings, although documentation produced disclosed that they had been advised in advance of these meetings. A file note recorded a text from the first respondent on 27 February 2017 asking for photographs. Kerry Parsons agreed to provide

these and that she would also bring the birth registration card to the respondents on a home visit. The first respondent was recorded as stating that she would not be attending the 72 hour planning meeting because she was in too much pain. This same file note recorded a number of text exchanges to the effect that the first respondent would not permit Kerry Parsons to enter the flat, and Kerry Parsons refusing to discuss anything in relation to the child outside (ie in the garden of the respondents' flat). As matters were left, Kerry Parsons would post out the certificate to register the child's birth but the first respondent would otherwise require to attend at the social work offices to request anything in relation to the child.

[555] 17 March 2017: An initial looked after child review took place. Around this time the petitioners resolved to pursue a permanence order and the matter was transferred to their permanence mentoring team in late March. As a consequence, Kerry Parson's involvement ceased and Debbie Adamson assumed responsibility. Meantime, grounds of referral were deemed established at the local sheriff court on 22 March 2017. (They were "deemed" established, because the parents had not attended.) A further Children's Hearing took place the following day, on 23 March 2017. The respondents did not attend that second Children's Hearing.

[556] 20 March 2017: Debbie Adamson hand-delivered a letter to the respondents' address asking them to meet with her at the social work office in two days time, on 30 March 2017, but they did not attend. She sent a further letter to respondents requesting their attendance at the social work office on 11 April but, again, they did not attend on that date.

[557] 23 March 2017: A further Children's Hearing took place, at which the petitioners recommended no contact. The respondents did not attend.

[558] 12 April 2017: A third Children's Hearing took place but the respondents did not attend. A compulsory supervision order ("CSO") was put in place with a condition of residence, non-disclosure, no contact and consent to medical assessment and treatment (including immunisation).

[559] 13 July 2017: the second respondent contacted the social work department and asked for his phone number to be removed from the system and he requested that all contact be via letter. On the same date, the first respondent sent an email asking for the second respondent's telephone number to be removed from the social work system as they had no right to his number. She also stated that she would not be providing her own mobile number, which was personal, and that: "We don't have to give you it as we are nothing to do with you anymore".

[560] 19 July 2017: This was the only meeting between Debbie Adamson and the second respondent. Debbie Adamson regarded this as positive. The second respondent provided his contact details. He explained he would not be able to attend the LAC review the next day as he would be visiting his father, who was unwell.

[561] 20 July 2017: The respondents did not attend the LAC review on this date. The first respondent did not provide a reason for non-attendance.

[562] 28 July 2017: The respondents did not attend or instruct representation at the Children's Hearing called by the second respondent.

[563] 29 August 2017: The petitioners' Permanence Panel met. It unanimously approved a plan for the child and which has resulted in the bringing of these proceedings. Schedules were sent to the respondents on 7 September 2017 advising them of the petitioners' intention to bring proceedings to seek authority to place the child for adoption.

[564] 2 November 2017: The respondents did not attend the further Children's Hearing on 2 November 2017.

Part C: Contact or communications initiated by the respondents after the child's birth

In the five or six months following the birth of the child, the contacts or communications initiated by or on behalf of the respondents were as follows:

1) 27 February 2017: The first respondent texted asking for photographs.
2) 16 May 2017: The second respondent's agents sent a letter to the petitioners' social work department, received on 18 May, but not responded to. So far as material, it stated: "[The second respondent] does wish to exercise contact with [the child] and, with that in mind, we would request that a Hearing should be called after the three month period has expired, i.e. after 11th July 2017."
3) 21 June 2017: The second respondent's agents sent a second, chasing letter, having had no reply to the letter in May. This referred to the May letter and asked Debbie Adamson if she would "confirm that you are investigating our client's application for contact so that you can address this matter when the next Children's Hearing takes place."
4) 13 July 2017: There were the texts exchanged, requesting the removal of the second respondent's telephone number.
5) 19 July 2017: The second respondent met with Debbie Adamson, stating that he was doing so because his solicitor had advised him to. He was described as presenting well throughout the meeting. He explained that he had called a Children's Hearing as he wanted to see the child and to form a bond with it. (As noted above, however, the respondents did not attend this hearing.) He indicated

at that meeting that he was happy to provide his mobile number, which he did. He explained he was unable to attend the looked after child review scheduled for 20 July 2017 because he would be visiting his father. I have set out in Debbie Adamson's evidence the full terms of her record of this meeting.

6) 19 July 2017: The first respondent telephoned looking for information regarding the planning for the child, following the second respondent's meeting with Debbie Adamson earlier that day. (The call was taken by Lesley Stevenson.) She expressed the view that it was unfair that she had had only a very brief time with the child at birth. She asked for contact and also asked if she could have a one-off contact with the child, if it were to be adopted. (The file note recorded this as: "[The first respondent] then asked about her having contact with [the child] saying it was not fair that she had only had a very brief time with [it] at birth - she then asked if [the child] was to be adopted could she have a one off contact.") Lesley Stevenson agreed to pass on this request. (As revealed in Debbie Adamson's evidence, she had understood that this was only a request for one-off contact.)

   The first respondent suggested that the older sibling should move up to Scotland to save the child travelling. Lesley Stevenson explained that the older sibling was well settled and the child would only be travelling on one occasion, namely to move south.

7) 5 September 2017: the first respondent phoned Debbie Adamson, who was not available. The first respondent left her contact number. The following day a letter was sent to the first respondent enclosing up-to-date photographs of the child.